



## REQUEST FOR PROPOSALS

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### Disaster Recovery and Debris Removal Services RFP No. 2015-16-8500-36-002

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**DEADLINE FOR REQUESTING ADDITIONAL INFORMATION & CLARIFICATION**

**06/07/2016**

**DEADLINE FOR SUBMITTING PROPOSALS**

**06/16/2016**

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AT

CITY OF HIALEAH  
OFFICE OF THE CITY CLERK  
CITY HALL, 3<sup>RD</sup> FLOOR  
501 PALM AVENUE  
HIALEAH, FL 33010 – 4719

Each Proposer is solely responsible for ensuring that it delivers its response to this Request for Proposals at the Office of the City Clerk on or before the deadline for submitting proposals. The City of Hialeah will not be responsible for delays caused by the United States Postal Service or any other occurrence.

Copies of this RFP may be obtained by contacting Angel Ayala, the Acting Purchasing Director of the City's Purchasing Department, at [AAyala@Hialeahfl.gov](mailto:AAyala@Hialeahfl.gov).



The City of Hialeah, Florida (hereinafter referred to as the "City"), is hereby soliciting proposals from all qualified companies that wish to provide the City with disaster recovery services, which may include emergency road clearance; Debris removal from public Rights-of-Way; removal of certain hazardous Stumps or hanging trees or limbs; operation of temporary Debris staging areas and reduction sites; Debris disposal; and Hazardous Waste abatement. Any Person wishing to submit a proposal must comply with the requirements contained in this Request for Proposals ("RFP" or "Solicitation") for Disaster Recovery and Debris Removal Services (RFP No. 2015-16-8500-36-002).

Each proposal shall be submitted in two (2) separate sealed envelopes; one (1) envelope shall contain the "Qualifications Package" and the second envelope shall contain the "Cost Package". The outside of each sealed envelope must clearly indicate the name and number of this RFP (Disaster Recovery and Debris Removal Services; RFP No. 2015-16-8500-36-002); the Proposer's name and address; and the name and telephone number of the Proposer's contact person. Each envelope shall be marked as either the "Qualifications Package" or the "Cost Package."

Each proposal must be delivered to the City Clerk no later than the date and time specified below as the "Deadline for Submittal of Proposals." Proposals received after said date and time will not be considered. No time extensions will be granted. Each proposal must be delivered to the City of Hialeah, Office of the City Clerk, Hialeah City Hall, 3<sup>rd</sup> floor, 501 Palm Avenue, Hialeah, FL 33010.

**The City's schedule for this RFP is as follows:**

Event	Date	Time
Advertisement Date:	May 24, 2016	N/A
Last Date for Receipt of Written Questions:	June 7, 2016	2:00 PM
Deadline for Submittal of Proposals:	June 16, 2016	11:00 AM
Evaluation of Responses:	June 2016	
City's Selection of Successful Proposer	June or July 2016	

*(The City reserves the right to delay or modify the scheduled dates. The City will publish notice on the City's website if there are any changes in the scheduled dates.)*

Copies of this Solicitation may be obtained from the Purchasing Department.

**ACCEPTANCE AND REJECTION OF PROPOSALS**

Each Proposer should carefully review the entire text of the City's Solicitation. The Solicitation describes the City's rights and the Proposer's obligations under this Solicitation. Among other things, the City reserves its right to: reject any or all proposals, with or without cause; waive minor irregularities with regard to the proposal requirements and the proposals received; and award the City's work to a Proposer that is responsive, responsible, and provides the best overall value to the City, as determined by the City in its discretion. The City also reserves its right to award the City's work to multiple vendors, based on the City's needs. By submitting a proposal in response to this Solicitation, a Proposer acknowledges that it accepts all of the terms, conditions, and limitations imposed on the Proposer by this Solicitation.

Please be advised that this Solicitation is issued subject to the City of Hialeah's Code of Ordinances. Communications with the Mayor, City Council, and City Staff are restricted, as specified in Sections 6.5 and 6.18 of this Solicitation.

We look forward to your active participation in this Solicitation.

Sincerely,

*Angel Ayala*

Angel Ayala,  
Acting Purchasing Director

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## **Section 1.0**

### **Definitions And Construction**

The capitalized words in this Request for Proposals ("RFP") are defined in the Agreement and this Section 1.0. In this RFP, the words "include" and "including" shall be deemed to be followed by the words "without limitation." References to "included" matters or items will be regarded as illustrative and will not be interpreted as a limitation on or an exclusive listing of the matters or items referred to.

The following definitions shall be used in this RFP:

- 1.1 "Agreement" means the "Agreement for Disaster Recovery and Debris Removal Services," including all of the exhibits and amendments thereto.
- 1.2 "Award" means the City Council's decision to accept a proposal and award the City's Agreement to a Proposer.
- 1.3 "City" means, depending on the context, either (a) the geographic area contained within the municipal boundaries of the City of Hialeah, Florida or (b) the government of the City, acting through the City Council or its designees.
- 1.4 "Proposer" means the Person, company, entity or organization submitting a Proposal in response to this Request for Proposals.
- 1.5 "Solicitation" means this request for proposals.
- 1.6 "Successful Proposer" means the Proposer, whether one or more than one, selected by the City to serve as the City's contractor under the Agreement. In this RFP, the Successful Proposer is synonymous with the "Debris Management Contractor" and "Contractor."

**END OF SECTION 1.0**

## **Section 2.0 Special Conditions**

### **2.1 INTRODUCTION AND BACKGROUND**

The City of Hialeah ("City") is the fifth largest municipality in Florida. Located in the northwest part of Miami-Dade County, the City has a total population of 224,667 according to the U.S. Census of 2010. Consequently, the City may experience massive destruction if the City is hit by a hurricane, storm, tornado and other natural or manmade disaster.

As a full-service community providing for the economic sustainability of business and residential life, it is essential for the City to provide for the efficient and effective recovery of Debris following a disaster. While assistance may be available to the City from the state and federal governments, this assistance may not be sufficient to restore the City after a catastrophic disaster. Consequently, the City may need to obtain additional assistance from the private sector to ensure that the needs of the City are addressed promptly. Furthermore, FEMA prefers that contracts for disaster recovery services be put in place prior to an emergency and, where possible, the services be obtained by using a competitive procurement process.

The City is issuing this Solicitation and seeking proposals because the City wishes to establish a pre-need, pre-event contract with experienced and qualified Debris management firm(s) that will establish a systematic approach for the efficient removal, processing, and disposal of Debris after a Declared Disaster. Using a private contractor will enable the City to meet the City's response and recovery priorities while protecting the health, safety, and welfare of our community, and ensuring the quickest and greatest economic recovery.

The City encourages small, minority, and women-owned businesses to participate in this Solicitation. The City has set an aspirational goal of 10% participation rate for small, minority, and women-owned businesses. This goal is not designed to be, nor may it be interpreted as, a means of permitting or facilitating unlawful preferential treatment. Instead, this goal is intended to encourage efforts to eradicate barriers to equal employment opportunities and also to broaden the pool of qualified candidates to include small, minority, and women-owned businesses.

The City's scope of services is summarized in Section 3 of this Solicitation and it is described more particularly in the Agreement that is attached hereto in Section 7. The specific terms and conditions in the Agreement will govern the Debris Management Contractor's work for the City. The Debris Management Contractor will be required to fully document all services it performs, and shall provide records and reports in compliance with FEMA requirements and other Applicable Laws. The Debris Management Contractor also shall assist the City with its efforts to obtain reimbursement from FEMA.



## 2.2 MINIMUM QUALIFICATIONS

Each Proposer must submit all documents and information necessary to demonstrate that the Proposer has the resources and experience to provide its services in compliance with the requirements in the Agreement. Any Proposer that fails to satisfy the following minimum requirements may be deemed "NON-RESPONSIVE".

Each Successful Proposer must demonstrate to the City that the Proposer is experienced with and knowledgeable about the applicable regulations, guidelines, and procedures established by FEMA concerning the collection of Debris. In addition, at a minimum, each Proposer must satisfy each of the following requirements:

- 2.2.1 Each Proposer must submit proof that the Proposer is and has been conducting business for the last five (5) consecutive years as a full-service disaster debris management contractor.
- 2.2.2 Each Proposer must submit proof that it has worked on a minimum of three (3) full-service disaster debris management contracts in which (a) the Proposer was the prime contractor and (b) the Proposer was responsible for collecting and processing a minimum of 1,000,000 cubic yards of Debris collected from public Right-of-Ways. Work performed as a subcontractor is not sufficient to satisfy this requirement.
- 2.2.3 Each Proposer must demonstrate that it can obtain the insurance required pursuant to Section 2.8 of this Solicitation.
- 2.2.4 Each Proposer must demonstrate that it can obtain a Performance Bond in compliance with the requirements in Section 2.10 of this Solicitation.

## 2.3 SOLICITATION TIMETABLE

The following timetable should be used as a working guide for planning purposes. The City reserves the right to adjust this timetable, as the City deems necessary, during the course of this Solicitation process.

Event	Date	Time
Advertisement Date:	May 24, 2016	N/A
Last Date for Receipt of Written Questions:	June 7, 2016	2:00 PM
Deadline for Submittal of Proposals:	June 16, 2016	2:00 PM
Evaluation of Responses:	June 2016	
City's Selection of Successful Proposer:	June or July 2016	

*(The City reserves the right to delay or modify the scheduled dates. The City will publish notice on the City's website if there are any changes in the scheduled dates.)*

## 2.4 MANDATORY PRE-PROPOSAL CONFERENCE

No Mandatory Pre-Proposal Conference will be held for this Solicitation.

## **2.5 PROPOSAL CLARIFICATION AND INQUIRIES**

Any questions or suggestions concerning this Solicitation must be submitted in writing by mail, facsimile, or e-mail to Mr. Angel Ayala, the City's Acting Purchasing Director. Mail should be addressed to Mr. Ayala at the City of Hialeah, Purchasing Department, City Hall, 501 Palm Avenue (4<sup>th</sup> Floor), Hialeah, Florida 33010. Facsimile transmissions shall be directed to Mr. Ayala at (305) 883-5871; E-mails shall be directed to [AAyala@Hialeahfl.gov](mailto:AAyala@Hialeahfl.gov).

The Solicitation number and title must be identified in all correspondence. Be sure to include the page and paragraph number of the Solicitation for each question and suggestion to ensure that they are responded to correctly. All questions and suggestions must be delivered no later than the time and date specified in the Solicitation Timetable (Section 2.4). Each Proposer shall be deemed to have waived all questions and suggestions that are not submitted to the Acting Purchasing Director in compliance with the requirements and deadline in this Section 2.5.

The City will only respond to questions and suggestions submitted to the City in writing.

**NO ORAL QUESTIONS OR SUGGESTIONS WILL BE ADDRESSED BY THE CITY. NO QUESTIONS OR SUGGESTIONS WILL BE ACCEPTED AFTER THE DEADLINE FOR SUBMITTING WRITTEN QUESTIONS.**

The City's official responses to questions and suggestions will be issued in an addendum to this Solicitation. Proposers may not rely on oral or written statements provided by the City, unless such statements are contained in a written addendum to this Solicitation. It is the Proposer's sole responsibility to ensure the Proposer receives all addenda.

## **2.6 METHOD OF AWARD**

The City plans to use a two-step process when evaluating proposals. First, each Proposer's Qualifications Package will be opened and evaluated to determine whether the Proposer is responsive and responsible. Pursuant to Section 2-811 of the City's Code, a responsive Proposer "means a person who has submitted a bid or proposal that conforms in all material respects to the request for proposals. . . ." A responsible Proposer "means a person who has the capacity in all respects to fully perform the contract requirements and has the integrity and reliability that will ensure good faith performance."

The City reserves its right to take all steps it deems necessary to evaluate the Proposer's qualifications and proposal. Among other things, the City may make additional inquiries of the Proposer and any other person, request additional information, obtain credit reports, and/or contact other local governments that have entered into contracts with the Proposer. A Proposer that does not provide the information requested by the City may be disqualified from this Solicitation.

The Qualifications Package and Cost Package will be evaluated using a point system. The City intends to award its Agreement to the responsive and responsible Proposer that earns the most points. The criteria to be considered and the associated point values are as follows:

Criteria	Point Value
1. Experience in disaster recovery services (including years of experience, prior performance, similar work, etc.)	35
2. Capacity to perform (including personnel, equipment inventory, financial resources, etc.)	30
3. Approach to City's work (including methodology, timeliness of response, strategy, and implementation plan)	15
4. Proposed Costs	20
Total	100

The proposals will be evaluated by a committee ("Evaluation Committee") designated by the Mayor. In its discretion, the Evaluation Committee may allow one or more of the Proposers to make a presentation to the Evaluation Committee for the purpose of providing more information about their proposal. Each member of the Evaluation Committee will assign scores to each proposal for criteria 1, 2, and 3, above. The individual scores for each criteria will be added together to develop an average score.

The score for costs will be based on the cost of responding to hypothetical storms, including a tropical storm, a Category 2 hurricane, and a Category 4 hurricane. The impacts of these hypothetical storms will be evaluated using a commercially available modeling program. The City will estimate the cost of responding to each of these hypothetical storms, using the proposed fees and rates submitted by each Proposer. The City will total the cost of responding to the hypothetical storms and then compare the total costs for each Proposer. The Proposer that offers the lowest total estimated cost for the hypothetical storms will receive the highest score (20 points). The next lowest cost proposal will receive a proportionate number of points. The scores for costs will be provided to the Evaluation Committee by the Purchasing Department. The scores for costs will be added to the average scores that were based on the other three criteria shown above.

The Evaluation Committee will recommend the highest ranked Proposer to the Mayor and the City Council. The Evaluation Committee also may recommend more than one Proposer for the City's work, based on the rankings. The City Council shall consider the Evaluation Committee's recommendation at a public meeting and may approve, reject, or modify such recommendation, as the City Council deems appropriate.

After the City Council selects one or more Proposers for the City's work, the selected Proposer(s) shall execute the Agreement. Thereafter, the Mayor and City Clerk, acting on behalf of the City, shall execute the Agreement and provide a copy to the Successful Proposer.

The City will request the Contractor's services on an as-needed basis, as determined by the City. If the City awards its Agreement to more than one Contractor, the City anticipates that it will activate the Contractors in the order of their ranking, as determined by the City Council, subject to the needs of the City. The City reserves its exclusive right to assign or reassign any or all Contractors at any time, as may be deemed appropriate by the City, depending on the circumstances and conditions which warrant such action.

**2.7 SPECIFIC REQUIREMENTS IN AGREEMENT**

The terms and conditions contained in this Solicitation shall govern the City's competitive procurement process. However, after the City and the Successful Proposer execute the Agreement, the parties shall be governed solely by the terms and conditions set forth in the Agreement.

**2.8 INSURANCE**

Each Proposer must provide proof of its ability to obtain insurance complying with the requirements specified in the Agreement. At a minimum, each Proposer shall submit an "Information Only Accord Certificate" demonstrating the Proposer's ability to obtain the required level of insurance. Certificates of insurance complying with the requirements in the Agreement do not need to be submitted with the proposal; however, certificates of insurance will be required before the City issues a Notice to Proceed to the Successful Proposer. The Successful Proposer must ensure that all required insurance coverage remains current and in effect throughout the remainder of the term of the Agreement.

All insurers must satisfy the applicable requirements set forth in Section 4 of the Agreement. The City's risk management officer must review and approve the insurers and the certificates of insurance before the City authorizes the Successful Proposer to proceed.

**2.9 INDEMNIFICATION OF CITY**

The Contractor shall indemnify the City in compliance with the requirements in Section 6 of the Agreement.

**2.10 PERFORMANCE BOND**

Before the Successful Proposer/Contractor may commence work, the Successful Proposer/Contractor must obtain a performance and payment bond. The amount of the bond will be determined by the City, based on the City's assessment of the Contractor's scope of work, and will be equal to one hundred percent (100%) of the estimated value of the Contractor's services, up to a maximum amount of twenty five million dollars (\$25,000,000). The bond shall be in the same form and format shown in Exhibit 4, which is attached to the Agreement. The cost of the bond shall be included in the unit rates provided in the Contractor's fee schedule. If the Contractor fails to provide a performance bond in compliance with these requirements, the City shall have the right to award its work to another person.

**2.11 CONFLICTS OF INTEREST**

The City's conflict of interest guidelines are contained in Article IV of the City Code, as amended, and the guidelines shall apply to any proposal submitted in response to this Solicitation. Each Proposer, City employee, Council member, and the Mayor also must comply with any applicable requirements set forth in Section 2-11.1 (Conflict of Interest and Code of Ethics Ordinance) of the Miami-Dade County Code of Ordinances. Proposers should be aware that no person under the City's employ who presently exercises any functions or responsibilities on behalf of the City in connection with this Solicitation may have any personal financial interest, directly or indirectly, with any vendor providing professional services on work assigned to the Proposer, except as fully

disclosed to and approved by the City. No person having such an interest shall be employed by the Proposer to work on this project.

## **2.12 PROPOSAL CONDITIONS**

### **2.12.1 The City's Rights:**

In its sole and absolute discretion, the City may: reject any or all proposals; re-advertise this Solicitation; postpone or cancel this Solicitation process at any time; or waive any minor irregularities in this Solicitation or in any proposal received by the City.

The City shall have the sole and absolute discretion to determine: the criteria and processes by which proposals will be evaluated; the manner and extent to which the City will investigate a Proposer's qualifications; whether a Proposer is qualified; whether a proposal is responsive to this Solicitation; the net economic value to the City of any proposal; whether a Proposer will be awarded the Agreement; and whether any award will be made as a result of this Solicitation.

In no event will a successful challenger of these determinations or decisions be automatically entitled to an award of the Agreement.

The submittal of a proposal shall constitute an offer by the Proposer to provide the services described in this Solicitation, subject to and in compliance with the requirements in the Agreement.

**BY SUBMITTING A PROPOSAL, EACH PROPOSER ACKNOWLEDGES AND AGREES THAT THE PROPOSER ACCEPTS ALL OF THE TERMS, CONDITIONS, AND LIMITATIONS IMPOSED ON THE PROPOSER IN THIS SOLICITATION.**

**2.12.2 Rules, Regulations and Requirement:** Each Proposer shall comply with all Applicable Law, including all local, state, and federal laws, ordinances, and regulations applicable to this Solicitation and the services required in the Agreement.

**2.12.3 Change of Proposal:** Any Proposer that wishes to change their proposal must do so in writing. Any request for changes to a proposal must be delivered to the City Clerk prior to the deadline for submitting proposals. The Proposer's name, the title of this Solicitation, and this Solicitation number must appear on the document requesting a change to the proposal.

**2.12.4 Withdrawal of Proposal:** Any request to withdraw a proposal must be delivered in writing to the City Clerk before the deadline for submitting proposals to the City under this Solicitation. Any proposal that is not withdrawn in time shall constitute an irrevocable offer to provide the services requested herein. The offer shall remain in effect for a period of one hundred eighty (180) days after the deadline for submitting the proposal.

**2.12.5 Contract Award:** If the City decides to award its work to a Proposer, the Proposer shall be required to sign the Agreement that is attached to this Solicitation, and the Proposer shall deliver the signed Agreement to the City Clerk, within seven (7) days after the City awards the work.

### **2.13 VENDOR REGISTRATION**

The Successful Proposer shall register with the City as a vendor and shall remain registered with the City throughout the term of the Agreement. By submitting a proposal in response to this Solicitation, the Proposer confirms that it is knowledgeable about and will comply with the City's procurement procedures and the City's Code of Ordinances.

### **2.14 PUBLIC RECORDS AND DISCLOSURE REQUIREMENTS**

The City is subject to Florida's public records laws. Proposals submitted to the City pursuant to this Solicitation are exempt from public disclosure until such time as the City provides notice of an intended decision or until thirty (30) days after the proposals are opened, whichever is earlier. Accordingly, each Proposer should assume that all of the information contained in its proposal will become a public record and be available for public review. The City shall not be liable or responsible for the disclosure of any materials submitted to the City in response to this Solicitation. However, Florida law provides certain exemptions to its disclosure requirements. If a Proposer believes that some specific information in its Proposal is exempt from disclosure under Florida law, the Proposer must label such information as confidential, specify the applicable section of the public records law that justifies non-disclosure of the Proposer's information, and request in writing that the City keep such information confidential. The City reserves its right to make any determination about the applicability of the public records law.

### **2.15 REFERENCES AND SUBCONTRACTORS**

Each proposal must be accompanied by a list of three (3) references who will confirm that the Proposer has performed work for their communities that satisfied the minimum requirements in Section 2.2.2, above. **A PROPOSAL WILL NOT BE CONSIDERED WITHOUT THIS LIST.** It is the responsibility of the Proposer to confirm that the contact person will be responsive to the City's inquiries. The Proposer's references must be identified in Chapter 5.B of the proposal, as described in Section 4.6 (Chapter 5.B), below.

Each Proposer also must complete Form 3 ("Subcontractors") and submit the form in the Proposer's Qualifications Package. As part of Form 3, each Proposer must provide the City with the name, address and telephone number of each subcontractor the Proposer plans to use, as well as a clear description of the work the Proposer will assign to subcontractors, and the percentage of the overall work that will be performed by subcontractors.

### **2.16 COMPLETE SERVICES REQUIRED**

The Agreement describes the services required by the City. However, the City's failure to specifically list any item of work in the Agreement shall not relieve the Successful Proposer of its responsibility to furnish all of the services and perform all of the work required to complete all of the tasks identified in the Agreement.

**2.17 PROPOSAL SUBMITTAL/ADDENDUMS**

Each proposal submitted to the City must include all of the completed proposal forms and all of the information requested in the proposal forms. Proposals may be considered "non-responsive" if the required information is not submitted with the proposal.

Before submitting a proposal, each Proposer shall make all investigations and examinations necessary to determine whether any addendums to this Solicitation were issued by the City's Purchasing Department.

**2.18 GROUND FOR REJECTING PROPOSALS**

Proposals found to be non-responsive shall not be considered. A proposal may be found to be non-responsive because, among other things, the Proposer: failed to utilize or complete the required forms; failed to provide additional information requested by the City; provided incomplete, indefinite, or ambiguous responses; failed to comply with the applicable deadlines; or provided improper or undated signatures. The City's grounds for rejecting proposals include: collusion among Proposers; a lack of experience, expertise, or other qualifications to perform the required work; a submission of more than one proposal by any person under the same or different names; the failure to perform satisfactorily or meet financial obligations on previous contracts; the employment of unauthorized aliens in violation of Section 274(A)(e) of the Immigration and Naturalization Act; the listing of a Proposer on the U.S. Comptroller General's List of Ineligible Companies for Federally Financed or Assisted Projects; or the listing of a Proposer on Miami-Dade County's Debarred Contractor's List. In addition, proposals will be rejected if the proposals are not delivered to the City's Purchasing Department on or before the date and time specified for the submittal of the proposal.

**2.19 LATE SUBMISSIONS**

The City will not accept proposals received after the deadline designated in Section 2.3 of this Solicitation. The City encourages the early submittal of proposals.

**2.20 PROPOSAL OPENING**

The names of the Proposers will be read aloud in the Council Chambers, which is located on the 3<sup>rd</sup> floor of City Hall, 501 Palm Avenue, Hialeah, FL 33010, promptly after the deadline for submitting proposals. A list of Proposers shall be available from the City Clerk's Office within 24 hours after the deadline for submitting proposals.

**2.21 NO WARRANTY CONCERNING CITY DATA**

The data contained in this Solicitation, and any data that may be provided by an official, employee, or agent of the City, are presented to the Proposers as a convenience only. The City makes no warranty or guarantee concerning the accuracy or completeness of any data or information set forth in this Solicitation or any other document. Proposers shall make no claim against the City if any such data proves to be erroneous in any respect. **EACH PROPOSER SHALL BE SOLELY RESPONSIBLE FOR DETERMINING ALL OF THE RELEVANT FACTS THAT MAY AFFECT ITS PROPOSAL.**

**2.22 OBJECTIONS AND PROTESTS**

Pursuant to Section 2-815.1 of the City Code, any responsive and responsible Proposer that is aggrieved in connection with this Solicitation or the proposed award of the Agreement may file a written protest with the City Clerk within seven (7) days after the date that the City Council awards the Agreement. Any protest shall be handled pursuant to Section 2-815.1 of the City Code.

**2.23 COST OF PROPOSAL PREPARATION**

Each Proposer assumes all risks and shall pay all expenses associated with the preparation and submittal of a proposal in response to this RFP. The City shall not be liable for any expenses incurred by the Proposer when responding to this RFP, including but not limited to the cost of travel, site visits, and making presentations to the City.

**END OF SECTION 2.0**



## **Section 3.0**

### **Scope of Services and Technical Specifications**

#### **3.1    TERM**

The term of the Agreement shall be for a period of three (3) years, beginning when the City executes the Agreement. The City may renew the Agreement for up to two (2) consecutive one-year terms, conditioned upon the Successful Proposer's satisfactory performance of its duties and responsibilities under the Agreement, and upon a determination that renewal will be in the best interest of the City.

#### **3.2    SCOPE OF SERVICES**

The objective of this RFP is to secure the services of an experienced Contractor that is capable of efficiently removing large volumes of disaster-generated Debris from the City in a timely and cost-effective manner. The Contractor must be capable of assembling, directing, and managing a work force that can complete the debris management operations expeditiously. The Contractor must have an established management team, an established network of resources to provide the necessary equipment and personnel, comprehensive plans for Debris removal and volume reduction operations, and demonstrable experience in major disaster recovery projects.

The duration of any specific tasks under the Agreement will be determined by the City. This determination will be set forth in writing in appropriate task orders. The Contractor must have the capability to cover the expenses associated with a major recovery operation prior to the initial payment by the City, and between subsequent payments, as well as the capacity to provide the necessary bonds and insurance.

The Agreement to be awarded under this RFP will be a contingency agreement, which will be activated only in the face of an emergency. No compensation will accrue or be paid to the Contractor unless and until the Agreement is activated, either in anticipation of a natural disaster or immediately after a disaster occurs.

The specific requirements for the Contractor's work are set forth in the Agreement, which is attached hereto as Section 7. The Contractor's work must be completed in compliance with FEMA requirements and all other Applicable Law. The Contractor must prepare and maintain records in compliance with FEMA requirements.

The Contractor's work may be divided into three categories: (1) Debris removal and disposal operations from residential streets, roads, and Right-of-Ways and the delivery of such material to a Temporary Debris Storage and Reduction Site; (2) Temporary Debris Storage and Reduction Site operations, which includes daily operations as well as the reclamation of the site to its pre-disaster condition, or as directed by the City's Administrator; and (3) processing, loading, and hauling material from the Temporary Debris Storage and Reduction Site to a City-approved landfill or Designated Recycling Facility.

**END OF SECTION 3.0**

## **Section 4.0**

### **Instructions For Preparing A Proposal**

**IT IS THE RESPONSIBILITY OF EACH PROPOSER TO ENSURE THAT THE PROPOSAL BEING SUBMITTED IS COMPLETE AND ADDRESSES ALL OF THE REQUIREMENTS SET FORTH IN THIS SOLICITATION.**

**PLEASE READ THE ENTIRE SOLICITATION CAREFULLY BEFORE SUBMITTING A PROPOSAL.**

#### **4.1     GENERAL INSTRUCTIONS**

Proposers must carefully follow the instructions outlined in this Section 4, observing format requirements where indicated. All materials (except for plans and schematics, if any) are to be submitted on 8.5" x 11" paper, paginated and separated by tabs to identify each required section. Each proposal shall be neatly typed and double-sided on recycled paper, with normal margins and spacing. All documents and forms must be fully completed and signed as required.

Please be concise in all responses. If any category is NOT APPLICABLE, expressly state that it is not applicable. Proposals that do not include the required documents may be deemed NON-RESPONSIVE and may not be considered for evaluation.

#### **4.2     COPIES OF PROPOSAL**

Please submit an original proposal and clearly mark it as the "Original." Five (5) complete, signed, paper copies of the original proposal also must be submitted and each should be clearly marked as "Copy". In addition, one complete copy of the original signed proposal must be submitted to the City in an electronic (digital) format, in an Adobe (pdf) file, on a compact disk (CD), DVD, or USB Flash Drive. The CD, DVD, or USB Flash Drive must be clearly labeled with the Proposer's name, the Solicitation number, and the Solicitation title. If any of the copies is incomplete, the proposal may be deemed non-responsive.

#### **4.3     SUBMISSION OF PROPOSAL PACKAGE**

Each proposal shall be submitted in two (2) separate sealed envelopes or other secured packaging; one (1) sealed envelope shall be labeled the "Qualifications Package" and the other sealed envelope shall be labeled "Cost Package". The original and the copies of the Qualifications Package may be submitted in one envelope or package. The original and the copies of the Cost Package also may be submitted in one envelope, but not in the envelope containing the Qualifications Package.

The outside of each sealed envelope or package must clearly indicate the name and number of this Solicitation (i.e., Disaster Recovery and Debris Removal Services; RFP No. 2015-16-8500-36-002); the Proposer's name and address; and the name and telephone number of the Proposer's contact person. Each envelope shall be marked as either the Qualifications Package or the Cost Package. All of the forms, appendices, and other information provided by the Proposer shall be placed in the Qualifications Package, except for Appendix C, Appendix C-1, and Appendix C-2 (i.e., the Cost Proposal and

Price Schedule Form, the Cost Proposal Hourly Labor Rates Form, and the Cost Proposal Equipment Rates), respectively, which shall be placed in the Cost Package.

#### **4.4 TABBING OF SECTIONS**

Each section of the proposal shall be separated by a physical tab or divider to insure that necessary documents are not overlooked. You may label each tab as 1, 2, 3, etc. If a tab section does not apply to you, you should put "Not Applicable" on the tab divider page or on a sheet of paper.

#### **4.5 COST PACKAGE**

The Cost Package shall contain the three Cost Proposal Forms that are contained in Appendix C to this RFP. In Appendix C (Cost Proposal and Price Schedule Form), Appendix C-1 (Cost Proposal Hourly Labor Rates), and Appendix C-2 (Cost Proposal Equipment Rates), the Proposer shall identify the proposed rates for Debris removal, disposal services, labor rates, and equipment rates, respectively. These are the only documents that need to be included in the Cost Package.

#### **4.6 QUALIFICATIONS PACKAGE**

The Qualifications Package shall contain all of the information and forms requested in this RFP, except the three forms that are required for the Cost Package. The Qualifications Package shall be prepared in the following sequence and format:

##### **CHAPTER 1 – LETTER OF INTENT**

Each Proposer shall submit a letter of intent, which shall be signed by an officer of the company or other person authorized to commit the Proposer to the terms presented in its proposal. The letter of intent must expressly state that the Proposer will provide the services requested in the RFP, in compliance with the terms in the Agreement, for the prices submitted with the proposal.

##### **CHAPTER 2 – STATEMENT OF ORGANIZATION**

Each Proposer shall provide information concerning the Proposer's basic organizational structure by completing Form 1. A Proposer may provide any additional information that will assist the City in understanding the Proposer's organization.

Each Proposer must submit a certificate or other appropriate documentation demonstrating that: (a) the Proposer is authorized or otherwise approved to conduct business in the State of Florida; and (b) if the Proposer is a corporation or limited liability corporation, the corporation is in good standing. Further, the Proposer shall submit a certificate, resolution, or other documentation confirming that the person signing the City's forms is duly authorized to bind the Proposer to the terms in its proposal.

Each Proposer must state whether it currently is a registered vendor in the City of Hialeah. If the Proposer currently is registered, please submit a copy of a vendor registration number issued by the City of Hialeah or other documentation to

demonstrate that the Proposer is authorized to conduct business in the City.

### **CHAPTER 3 – STAFFING**

Each Proposer must provide an organizational chart concerning the personnel that the Proposer will provide to the City. Each Proposer must provide all of the information requested in Form 2, which is attached to this RFP. Each Proposer must identify the individuals that will serve as the Project Manager and the Field Supervisor (or individuals with similar titles)--i.e., the people that will be responsible for directing the Proposer's work for the City in accordance with the Agreement. The Proposer must provide resumes or other information describing the experience and qualifications of these individuals.

### **CHAPTER 4 – SUBCONTRACTORS**

Each Proposer must identify each subcontractor (if any) that the Proposer intends to use under this RFP. The Proposer must complete Form 3, which is attached hereto, concerning its subcontractors. Among other things, the Proposer must describe the services to be provided by each subcontractor and demonstrate that the subcontractor is qualified to provide such services.

### **CHAPTER 5 – EXPERIENCE**

A. Each Proposer must submit proof that the Proposer is and has been conducting business for the last five (5) consecutive years as a full-service disaster debris management contractor.

B. Each Proposer must provide a list of reference clients that will confirm the Proposer has worked on a minimum of three (3) full-service disaster debris management contracts in which (a) the Proposer was the prime contractor and (b) the Proposer was responsible for collecting and processing a minimum of 1,000,000 cubic yards of Debris collected from public Right-of-Ways. Work performed as a subcontractor is not sufficient to satisfy this requirement. Each proposal shall include the names of the reference communities, the name of a contact person in each reference community, and the telephone number and e-mail address (if available) of each contact person.

C. Each Proposer must describe all of the projects it has handled as a prime contractor in the last ten (10) years involving the collection, processing, and management of more than 1,000,000 cubic yards of Debris from public Rights-of-Way. For each such project, you must provide the following information:

1. The name and type of storm event or disaster;
2. The date and location of the event;
3. The name and address of your client;
4. A narrative description of the services you performed;
5. The total amount of Debris you collected (measured in cubic

yards);

6. The total amount of Debris you collected from public Rights-of-Way;
  7. The total dollar amount of your contract for the project;
  8. The total dollar amount of your work that was reimbursed to your client;
  9. The total amount of Debris you handled at Temporary Debris Staging and Reduction Sites; and
  10. The name, telephone number, and email address (if available) for your client's contact person or representative for each project.
- D. Each Proposer must identify each city and county in Florida that currently has a contract with the Proposer for disaster recovery and debris removal services. For each of these cities and counties, please provide the name, telephone number, and e-mail address (if available) of the contact person for that city or county.
- E. Each Proposer should identify any applicable certification it has received, including certifications to handle, collect, process, transport, and dispose of Debris, Hazardous Waste, or other materials. Certifications by or active involvement with disaster preparedness agencies should be identified and documented.
- F. Each Proposer is encouraged to provide additional information about other projects that demonstrate the Proposer has the experience to provide all of the services required under the Agreement.

#### **CHAPTER 6 – CAPACITY TO PERFORM (PERSONNEL AND EQUIPMENT)**

Each Proposer must provide information demonstrating that the Proposer will be able to dedicate sufficient personnel, vehicles, equipment, and other resources to perform the work required under the City's Agreement.

Each Proposer must identify and describe the resources it has available to serve the City, including its personnel, equipment and vehicles. For each vehicle and piece of equipment, please identify the make, model, identification number, and load capacity (measured in cubic yards), if applicable. Also identify the steps that have been or will be taken to obtain additional vehicles and equipment, if needed.

If the Proposer currently owns or leases locations that have been fully permitted to function as a TDSRS, and the Proposer intends to use these locations to temporarily store, reduce, segregate, and/or process Eligible Debris for the City, then the Proposer must identify the name, location and capacity of these TDSRSs. The Proposer also must state whether it intends to use these locations to temporarily store, reduce, segregate, and/or process Eligible Debris for other

clients, in addition to the City. The Proposer must indicate any current or proposed uses for these locations.

#### **CHAPTER 7 – APPROACH TO CITY’S WORK**

Each proposal must include a mobilization and implementation plan -- i.e., a plan that explains how the Proposer will provide its services to the City in compliance with the requirements in the Agreement. The plan should include a description of the actions that the Proposer will take to mobilize if the City notifies the Proposer/Contractor that it wishes to utilize the Contractor’s services as a result of an imminent or existing disaster in the City. The implementation plan must identify the individuals and resources that will be dedicated to the City’s work.

For the purposes of responding to this request for information, each Proposer should assume hypothetically that the City will be hit by a Category 2 hurricane. Based on this assumption, each Proposer should identify:

- a. The number and types of vehicles and equipment that will be used;
- b. The number and types of personnel;
- c. Any other relevant information that will help the City evaluate the Proposer’s plan and resources for providing service to the City.

#### **CHAPTER 8 – BANKRUPTCY MATTERS**

Each Proposer must identify any pending or threatened bankruptcy proceeding involving the Proposer, its parent, a subsidiary, or an affiliate. The Proposer also must identify any bankruptcy proceedings that involved the Proposer, its parent, a subsidiary, or an affiliate that were filed or pending on or after January 1, 2011. If the Proposer has been involved in any such proceeding, the Proposer should describe the basic facts concerning such proceeding.

#### **CHAPTER 9 – FINANCIAL RESOURCES**

Each Proposer shall provide the City with copies of their audited financial statements for the last two (2) years. If the Proposer does not have audited financial statements, the Proposer may substitute non-audited financial statements and completed federal tax returns for the last two (2) years. Publicly traded corporations may provide pertinent copies of, or an electronic link to, the corporation’s annual financial reports, annual audits, and similar filings with the U.S. Securities and Exchange Commission.

In all cases, the Proposer must provide a balance sheet, an income statement, and a statement of cash flow, or other documents demonstrating that the Proposer has the financial resources necessary to provide the services contemplated by this RFP.

Each Proposer also must provide: (a) information concerning their lines of credit,

including the total amount of all lines of credit and the amount currently available; and (b) one or more letters of reference from lenders or other financial institutions that can attest to the creditworthiness of the Proposer and their willingness to do business with the Proposer.

Pursuant to the Florida Public Records Law, all of the financial information provided to the City, as well as all of the other information submitted with the Proposer's proposal, will be available for public inspection after the proposals are opened, except as provided in Sections 119.071(1)(b) and 286.0113, Florida Statutes. See Section 2.14, above.

#### **CHAPTER 10 – INSURANCE REQUIREMENTS**

Each Proposer shall provide an "Information Only ACORD Certificate" in their proposal, with the City (RFP No. 2015-16-8500-36-002) as the Certificate Holder, demonstrating the Proposer's ability to obtain the required types and levels of insurance, as specified in Section 4 of the Agreement and Form 4 and Form 5, below. Unless otherwise provided in writing by the Proposer in their proposal, the ACORD certificate shall be issued by a company or companies authorized or otherwise approved to do business under the laws of the State of Florida.

#### **CHAPTER 11 – BONDING COMPANY COMMITMENT**

Each Proposer must provide an unequivocal, irrevocable letter of commitment from a State of Florida licensed bonding company to provide a Performance Bond that will satisfy the requirements in Section 13 of the Agreement. The irrevocable letter of commitment must expressly state that the bonding company accepts the terms of the draft Performance Bond that is attached to the Agreement as Exhibit 4.

The letter of commitment must demonstrate that the Proposer has the ability to obtain a Performance Bond in the amount of Twenty-Five Million Dollars (\$25,000,000). The letter of commitment must state that it is being issued by a bonding company that: (a) is approved to transact business in the State of Florida; (b) has a resident agent in the State of Florida; (c) is rated "A" or better as to management and "FSC X" or better as to strength by Best's Insurance Guide; (d) is listed in the U.S. Treasury Department's list of acceptable sureties for federal bonds; and (e) has been in business and has a record of successful and continuous operation for at least five (5) years. For the purposes of this RFP, a Proposer only needs to submit an irrevocable letter of commitment with its proposal. The Performance Bond is not required with the proposal; however, the Performance Bond must be delivered to the City by the Successful Proposer before the City will authorize the Proposer to commence work for the City.

#### **CHAPTER 12 – LITIGATION HISTORY**

Each Proposer shall identify each case in the last ten years (i.e., on or after January 1, 2006) where:

- (a) a civil, criminal, administrative, bankruptcy or other similar proceeding was filed against the Proposer, if such proceeding arises from or is related to a dispute concerning the Proposer's rights, remedies or duties under a contract with a city, county, or other governmental entity for the collection of Disaster Debris;
- (b) a city, county, or other governmental entity terminated a contract with the Proposer concerning the collection of Disaster Debris; or
- (c) administrative fines, liquidated damages, civil penalties, or other penalties (collectively "penalties") were assessed against or deducted from the Proposer's payments under a contract with a city, county, or governmental entity for the collection of Disaster Debris and such penalties exceeded ten thousand dollars (\$10,000).

Each Proposer also shall identify each instance in which the Contractor paid more than ten thousand dollars (\$10,000) to settle a dispute with a governmental entity concerning the Proposer's performance under a contract for the collection of Disaster Debris and such payment occurred on or after January 1, 2006. The Contractor shall identify each such settlement agreement, and the amount paid by the Proposer, unless the settlement agreement explicitly prohibits the disclosure of the agreement's existence.

For each case identified pursuant to this Chapter 12, the Proposer must describe the basic facts concerning the case, including the names of the parties and the current status of the case.

Each Proposer must disclose whether the Proposer, or any of its owners, officers, subsidiaries, or affiliates have been excluded, disqualified, or disbarred by any federal, state or local government or agency since January 1, 2006.

Each Proposer must disclose whether the Proposer, or any of its owners, officers, subsidiaries, or affiliates have in the last ten (10) years (i.e., on or after January 1, 2006): failed to qualify as a responsive proposer for the collection of Disaster Debris; or refused to enter into a contract for the collection of Disaster Debris after an award had been made to the Proposer; or failed to complete a contract for the collection of Disaster Debris; or been declared to be in default in any contract for the collection of Disaster Debris. If any of these events have occurred, the Proposer should provide additional information to explain the basic facts concerning such event.

### **CHAPTER 13 – CRIMINAL CONVICTIONS, ENVIRONMENTAL VIOLATIONS, AND PUBLIC ENTITY CRIMES**

Each Proposer must provide a summary of each criminal conviction of the Proposer, or any of its owners, officers, subsidiaries, or affiliates concerning the collection or management of Disaster Debris, that occurred on or after January 1, 2006. For the purposes of this Section 3.4, Chapter 13, any person who pleads "guilty" or "nolo contendere" or who is found guilty shall be deemed to have



been convicted, notwithstanding a suspension of sentence or a withholding of adjudication.

Each Proposer also must provide a summary of each case initiated against the Proposer, or any of its owners, officers, subsidiaries, or affiliates by a local, state, or federal agency on or after January 1, 2006 concerning an alleged or actual violation of an environmental law resulting from the collection, processing, or management of Disaster Debris.

Each Proposer must complete and submit Form 6, which is included in Section 5 of this RFP. Form 6 is the Public Entity Crimes Affidavit. Form 6 must be notarized (i.e., signed in the presence of a Notary Public or other official).

#### **CHAPTER 14 – PROPOSER’S NON-COLLUSION CERTIFICATION**

Each Proposer must complete and execute the Non-Collusion Affidavit (Form 7), which is included in Section 5 of this RFP. Form 7 must be notarized.

#### **CHAPTER 15 – CONFLICT OF INTEREST AND ETHICS**

Each Proposer must confirm that the Proposer does not violate any of the following conflict of interest provisions:

- (a) To the best of its knowledge, no officer, director, agent, or employee of the Proposer, or any relative of an officer, director, agent, or employee of the Proposer, is also an employee of the City.
- (b) To the best of its knowledge, no City employee owns, directly or indirectly, an interest of five percent (5%) or more in the Proposer’s firm or any of its subsidiaries or affiliates.
- (c) The Proposer does not own or have a financial interest in more than ten percent (10%) of any other Proposer, regardless of whether such ownership is direct or through a parent, subsidiary, or holding company of any other business entity.

Each Proposer shall list and describe any professional or financial relationship that it has or had with the City, its elected or appointed officials, its employees or agents, or any of its agencies or component units, during the past five (5) years (i.e., since January 1, 2011), together with a statement explaining why such relationships do not constitute a conflict of interest relative to the services sought in this RFP. The list of professional relationships should include any contracts between the Proposer and the City. Please note that such relationships, standing alone, do not qualify or disqualify a Proposer. The Proposer shall have an ongoing obligation to give the Purchasing Director prompt written notice of any other professional or financial relationships that it enters into with the City, its elected or appointed officials, its employees or agents, or any of its agencies or component units before the Agreement is executed.

Each Proposer must list all relationships that present potential, actual or perceived conflicts of interest in connection with the Proposer's potential work under this Solicitation. With regard to each such conflict, please provide a brief explanation of the facts and issues involved in the potential conflict. If the Proposer is not aware of any potential conflict, the Proposer should state there are no such conflicts.

The City wishes to ensure that the members of the Evaluation Committee do not have any relationship with a Proposer that would constitute a conflict of interest. Accordingly, each Proposer must identify all persons that are involved with this Solicitation on behalf of the Proposer. In addition to the representatives previously addressed by the Proposer in their response to this Solicitation, please identify the names of any person serving as the Proposer's lawyer, lobbyist, or public relations representative with regard to this Solicitation. The Proposer also must promptly notify the City Clerk in writing if any person is added to this list after the submittal of the Proposer's proposal.

If the Proposer is participating in any discussions concerning a merger, acquisition, partnership, or assignment of the City Agreement, please identify the other person(s) that may be participating in the work performed under the City's Agreement.

#### **CHAPTER 16 – DRUG-FREE WORKPLACE CERTIFICATION**

Each Proposer shall certify that it has implemented a drug-free workplace program. A signed certification of compliance (Form 8 in Section 5 of this RFP) must be submitted with the proposal.

#### **CHAPTER 17 – ACKNOWLEDGMENT OF ADDENDA**

Each Proposer shall complete and sign the Acknowledgement of Addenda form (Form 9 in Section 5 of this RFP) and shall include the form in the proposal. In the event any Proposer fails to acknowledge receipt of such addenda, their proposal shall nevertheless be construed as though the addenda had been received and acknowledged, and the submission of the proposal shall constitute the Proposer's acknowledgment of receipt of all addenda, whether or not actually received by the Proposer.

#### **CHAPTER 18 – CERTIFICATION TO ACCURACY OF PROPOSAL**

Each Proposer shall certify and attest, by executing Form 10 (Section 4 of this RFP), that all forms, affidavits and documents the Proposer has enclosed in the proposal are true and accurate. If the Proposer fails to attest to the truth and accuracy of such forms, affidavits and documents, the proposal shall be deemed non-responsive and it will not be considered. Form 10 must be notarized.

#### **CHAPTER 19 – PROPOSER'S ACKNOWLEDGMENT**

Each Proposer must execute and submit Form 11, which is entitled "Proposer's Acknowledgment."

## **CHAPTER 20 – DISCLOSURE AFFIDAVIT**

Each Proposer must complete and submit Form 12, which is entitled “City of Hialeah Disclosure Affidavit.”

## **CHAPTER 21 – ASSIGNMENT OF ANTITRUST CLAIMS**

Each Proposer must complete and submit Form 13, which is entitled “Assignment of Antitrust Claims.”

## **CHAPTER 22 – FHWA 1273**

Each Proposer must complete and submit Form 14, which is entitled “FHWA 1273” (Exhibit E; revised May 1, 2012).

## **CHAPTER 23 – APPENDIX A**

Each Proposer must complete and submit the “Proposal Submittal Form” contained in Appendix A of this RFP.

## **CHAPTER 24 – SUBMITTAL CHECKLIST**

Each Proposer must complete and submit the “Submittal Checklist” contained in Appendix B of this RFP.

### **4.7 CONTRACT FORMS AND APPENDICES**

The City’s forms and appendices are contained in Section 5 of this RFP. The following forms and appendices must be submitted in the following order in the Qualifications Package:

Form 1	Proposer’s Statement of Organization
Form 2	Staffing
Form 3	Subcontractors
Form 4	Insurance Requirements
Form 5	Insurance Check List
Form 6	Public Entity Crimes Affidavit
Form 7	Non-Collusion Affidavit
Form 8	Drug-Free Workplace
Form 9	Acknowledgment of Addenda
Form 10	Certification to Accuracy of Proposal
Form 11	Proposer’s Acknowledgement
Form 12	City of Hialeah Disclosure Affidavit
Form 13	Assignment of Antitrust Claims
Form 14	FHWA 1273

Appendix A    Proposal Submittal Form

Appendix B    Submittal Checklist

The following forms and appendices must be submitted in the following order in the Cost Package:

Appendix C    Cost Proposal and Price Schedule Form

Appendix C-1   Cost Proposal Hourly Labor Rates

Appendix C-2   Cost Proposal Equipment Rates

**Each form and appendix must be filled in completely, signed, and notarized. E-mailed forms will NOT be accepted.**

**END OF SECTION 4.0**

**SECTION 5.0**  
**FORMS AND APPENDICES**



**Forms**  
**& Appendices**

## **Form 1. Proposer's Statement of Organization**

1. Full Name of Proposer's Business:

\_\_\_\_\_

2. Proposer's Principal Business Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. Name, phone number, and e-mail address of Proposer's representative:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Form of Proposer's Business (e.g., Corporation, Partnership, Joint Venture, Other):

\_\_\_\_\_

5. If Proposer is a partnership, please indicate the following:

(a) Date of organization: \_\_\_\_\_

(b) General or Limited Partnership \_\_\_\_\_

(c) If a Limited Partnership, identify the general partners: \_\_\_\_\_

\_\_\_\_\_

(d) Provide the name and address of each partner:

Name	Address	Title
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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. If Proposer is a corporation, identify the state where the Proposer was incorporated and the date of incorporation:

\_\_\_\_\_

7. If the Proposer is a foreign corporation, please identify:

(a) The date of registration with the Florida Secretary of State

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(b) The name of the Proposer's Registered Agent

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(c) The address of the Proposer's Registered Agent

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8. If the Proposer is a corporation, provide the names and addresses of the Proposer's President, Vice President, and Treasurer. If the Proposer is a limited liability company, provide the name(s) and address(es) of the manager or managing members.

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9. If the Proposer is a Joint Venture, identify the date of the joint venture agreement:

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10. Provide the Proposer's Federal Employer Identification Number:

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11. How many years has the Proposer been in business under its present name?  
\_\_\_\_\_ years

12. If the Proposer is operating under a fictitious name, submit evidence of compliance with the Florida Fictitious Name Statute.

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## **Form 2. Staffing**

1. Provide an organizational chart for the professional or management level staff positions that will be used by the Proposer to provide services for the City.
2. With regard to the staff positions identified in response to No. 1, above, please provide a narrative description of the duties and responsibilities of each staff position and the qualifications required for each position.
3. Proposers must provide a District Manager and a Field Supervisor (or employees with comparable titles and responsibilities) who will be accessible to the City at all times. Identify the people that will serve in these positions.
4. With regard to the individuals identified by the Proposer in response to Nos. 1-3, above, please indicate whether any of these individuals will be used to service any contract for other cities or communities while working under the City's Agreement.
5. For each member of the professional or management staff that will be responsible for providing services to the City, please provide a resume indicating the individual's areas of expertise and experience. Resumes must include the following information; however, additional information also may be provided by the Proposer.

- A. Name & Title
- B. Assignment on City's Project
- C. Years of Experience with:
  - The Proposer's Company
  - Other Similar Companies
- D. Education:
  - Degree(s)
  - Year/Specialization
- E. Summary of Professional Training and Experience
- F. Other Relevant Experience and Qualifications



### **Form 3. Subcontractors**

If the Proposer will use any subcontractors, the Proposer shall provide: (a) the name, address, and telephone number of each subcontractor; (b) the name and telephone number of the subcontractor's contact person; (c) the percentage of work the contractor will assign to each subcontractor; (d) a clear description of the work that will be performed by each subcontractor; (e) a description of the subcontractor's qualifications to perform the City's work; and (f) a description of the qualifications of the subcontractor's employees that will be responsible for the City's work. \_\_\_\_\_

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## **Form 4. Insurance Requirements**

See Insurance Check List for applicability to this Solicitation and the Agreement.

The Contractor shall be responsible for its work and every part thereof, including all materials, tools, appliances and property of every description used in connection therewith. The Contractor shall specifically and distinctly assume all risks of damage or injury to property or persons used or employed on or in connection with the work and of all damage or injury to any person or property, wherever located, resulting from any action or inaction of the DMC under the Agreement or in connection with the work.

The Contractor shall, during the work under this Agreement, including extra work in connection therewith:

Maintain Worker's Compensation and Employer's Liability Insurance to meet the statutory requirements of the State of Florida, to protect themselves from any liability or damage which may arise by virtue of any statute or law in force or which may hereafter be enacted.

Maintain General Liability Insurance in amounts prescribed by the City to protect the Contractor in the interest of the City against all risks of injury to persons (including death) or damage to property wherever located resulting from any action or operation under the Agreement or in connection with the work.

Maintain Automobile Liability Insurance, including Property Damage, covering all used or operated automobiles and equipment used in connection with the work.

When naming the City of Hialeah as an additional insured onto the Contractor's policies, the insurance companies hereby agree and will endorse the policies to state that the City will not be liable for the payment of any premiums or assessments. An endorsement to the policy(ies) shall be issued accordingly and the certificate will state the above.

The insurance coverage shall extend to and include the contractual indemnity and hold harmless language contained in the Agreement.

Original, signed certified Insurance Certificates evidencing such insurance and such endorsements as prescribed herein shall be filed by the Contractor with the City of Hialeah, and approved by the City before the work is started. The certificate must state the Solicitation Number and Title.

Products and Completed Operations Liability shall be provided, as stated in the Insurance Check List.

The Contractor will secure and maintain policies for subcontractors. All policies shall be made available to the City upon demand.

The Contractor shall take note of the indemnification contained in the Agreement and shall obtain and maintain contractual liability insurance in adequate limits for the sole purpose of protecting the City of Hialeah under the Agreement from any and all claims arising out of the Contractor's operations.

Further, the Contractor will notify its insurance agent without delay of the existence of the indemnification requirement contained within the Agreement, and furnish a copy of the Agreement to the insurance agent.

The City shall be named as additional insured on the Automobile and General Liability policy(ies) with proof to be stated on the Certificates provided to the City and this coverage to be primary to all other coverage the City possesses.

### **SUPERVISION**

Contractual and any other Liability Insurance provided under the Agreement shall not contain a supervision, inspection, engineering services exclusion that would preclude the City from supervising and/or inspecting the Contractor's work. The Contractor shall assume all on-the-job responsibility as to the control of persons directly employed by the Contractor and/or the subcontractor and persons employed by the subcontractor.

### **CONTRACTS**

Nothing contained in the Solicitation or Agreement shall be construed as creating any contractual relationship between any subcontractor and the City.

The Contractor shall be as fully responsible to the City for the acts and omissions of the subcontractors and of persons employed by them, as the Contractor is for acts and omissions of persons directly employed by the Contractor.

### **PROTECTION**

Precautions shall be exercised at all times for the protection of persons, including employees, and property. All existing structures, utilities, roads, services, trees, shrubbery, etc., shall be protected against damage or interrupted service at all times by the Contractor during the term of the Agreement. The Contractor shall be held responsible for any damage to any person or property occurring by reason of the Contractor's operation under the Agreement.

### **CROSS LIABILITY**

It is understood and agreed that the inclusion of more than one insured under the Contractor's policy shall not restrict the coverage provided by the policy for one insured hereunder with respect to a liability claim or suit by another insured hereunder or an employee of such other insured and that with respect to claims against any insured hereunder, other insurers hereunder shall be considered members of the public; but the provisions of this Cross Liability clause shall apply only with respect to liability arising out of the ownership, maintenance, use, occupancy or repair for such portions of the premises insured hereunder as are not reserved for the exclusive use of occupancy of the insured against whom claim is made or suit is filed.

### **CERTIFICATE OF INSURANCE**

On an Accord Certificate of Insurance binder, on the Cancellation Clause, the following shall be deleted: The word "endeavor" as well as "...but failure to mail such notice shall impose no obligation or liability of any kind upon the company".

### **OUT-OF-STATE NON-RESIDENT AGENT**

When a certificate is issued by an out-of-state non-resident agent with a "920" License, the name, address and telephone number of the Florida Resident Agent must be listed in the space provided on the checklist and on the Certificate of Insurance provided.

### **SMALL DEDUCTIBLE POLICIES**

All policies issued to cover the insurance requirements herein shall provide full coverage from the first dollar of exposure. No deductibles will be allowed in any policies issued on this contract unless specific safeguards have been established to assure an adequate fund for payment of deductibles by the insured. These safeguards shall be in form of escrow accounts or other method established by the Risk Manager to safeguard to the City's interests and those interests of any claimants under the contractor's policies.

## Form 5. Insurance Check List

RFP No. 2015-16-8500-36-002

INSURANCE	LIMITS
<u>X</u> 1. WORKERS' COMPENSATION AND EMPLOYEE'S LIABILITY POLICY ISSUED IN NAME OF VENDOR.	STATUTORY LIMITS OF THE STATE OF FLORIDA, AS PROVIDED IN THE AGREEMENT.
<u>X</u> 2. COMMERCIAL GENERAL LIABILITY PREMISES OPERATIONS INCLUDED; PRODUCTS AND COMPLETED OPERATIONS INCLUDED; INDEPENDENT CONTRACTORS (O.C.P.) INCLUDED; ELEVATORS INCLUDED; SUPERVISION EXCLUSION DELETED; PERSONAL INJURY LIABILITY INCL	\$5,000,000 SINGLE LIMIT FOR BODILY INJURY AND PROPERTY DAMAGE COMBINED EACH OCCURRENCE, AS PROVIDED IN THE AGREEMENT.
<u>X</u> 3. BROAD FORM PROPERTY DAMAGE ENDORSEMENT	AS PROVIDED IN THE AGREEMENT.
<u>X</u> 4. CONTRACTUAL INDEMNITY/HOLD HARMLESS ENDORSEMENT EXACTLY AS WRITTEN IN "INSURANCE REQUIREMENTS" OF SPECIFICATIONS	\$1,000,000 SINGLE LIMIT FOR BODILY INJURY & PROPERTY DAMAGE COMBINED EACH OCCURRENCE, AS PROVIDED IN THE AGREEMENT.
<u>X</u> 5. AUTOMOBILE LIABILITY OWNED NON-OWNED/HIRED AUTOMOBILES INCLUDED	\$1,000,000 SINGLE LIMIT FOR BODILY INJURY & PROPERTY DAMAGE COMBINED EACH OCCURRENCE, AS PROVIDED IN THE AGREEMENT.
<u>X</u> 6. UMBRELLA LIABILITY	\$1,000,000 EXCESS OF ALL PRIMARY COVERAGE, AS PROVIDED IN THE AGREEMENT.
<u>  </u> 7. GARAGE LIABILITY	\$1,000,000 SINGLE LIMIT FOR BODILY INJURY AND PROPERTY DAMAGE COMBINED EACH OCCURRENCE
<u>  </u> 8. GARAGEKEEPER'S LEGAL LIABILITY	\$100,000 EACH OCCURRENCE
<u>X</u> 9. THE CITY MUST BE NAMED BY ENDORSEMENT AS ADDITIONAL INSURED ON THE INSURANCE POLICY AND THE FOLLOWING MUST ALSO BE STATED ON THE CERTIFICATE. "THESE COVERAGES ARE PRIMARY AND NON-CONTRIBUTORY TO ALL OTHER COVERAGES THE CITY POSSESSES FOR THIS CONTRACT ONLY."	
<u>  </u> 10. TEACHERS PROFESSIONAL LIABILITY	\$1,000,000 EACH CLAIM
<u>  </u> 11. LIQUOR LEGAL LIABILITY	\$1,000,000 EACH OCCURRENCE
<u>  </u> 12. CROSS LIABILITY OR SEVERABILITY OF INTERESTS CLAUSE ENDORSEMENT	

# **CITY OF HIALEAH INSURANCE CHECK LIST**

## **INSURANCE**

## **LIMITS**

- 
- |   |   |
|---|---|
| ___ 13. XCU PROPERTY DAMAGE EXCLUSION DELETED AND THIS COVERAGE WILL PROVIDED                                 |   |
| ___ 14. BUILDERS RISK   | FULL CONSTRUCTION COSTS OF THE PROJECT  |
| ___ 15. OTHER INSURANCE AS INDICATED BELOW:   |   |
| X 16. THIRTY (30) DAYS CANCELLATION NOTICE REQUIRED   |   |
| X 17. BEST'S GUIDE RATING   | A-X OR BETTER OR ITS EQUIVALENT   |
| X 18. THE CERTIFICATE MUST STATE THE BID NUMBER AND TITLE   |   |
| ___ 19. CYBER LIABILITY   | \$1,000,000<br>EACH CLAIM   |
| ___ 19. INFORMATION TECHNOLOGY<br>ERRORS AND OMISSIONS<br>INCLUDING CYBER LIABILITY<br>AND PRIVACY PROTECTION | \$1,000,000<br>EACH CLAIM   |
| X 20. POLLUTION LIABILITY   | \$1,000,000<br>EACH CLAIM   |
| X 21. ERRORS & OMISSIONS/PROFESSIONAL<br>LIABILITY  | \$5,000,000<br>EACH CLAIM   |
| ___ 22. BUSINESS PERSONAL PROPERTY COV.   | LIMITS EQUALING REPLACEMENT<br>COST OF VENDOR'S PROPERTY                            |
| ___ 23. SPOILAGE COVERAGE   | LIMITS EQUALING REPLACEMENT<br>COST OF VENDOR'S PROPERTY                            |
| ___ 24. LOSS OF INCOME COVERAGE.  | LIMITS ADEQUATE TO COVER LOSS<br>OF INCOME AND EXTRA EXPENSE<br>FOR 12 MONTHS       |
| ___ 25. CRIME COVERAGE  | EMPLOYEE DISHONESTY INCLUDING<br>FORGERY, COMPUTER FRAUD AND<br>WIRE TRANSFER FRAUD |
-

PROPOSER AND INSURANCE AGENT STATEMENT:

We understand the Insurance Requirements of this Solicitation and we recognize that evidence of insurability may be required within five (5) days after proposals are opened.

\_\_\_\_\_  
Proposer's Name

\_\_\_\_\_  
Insurance Agency

\_\_\_\_\_  
Signature of Proposer's Representative

\_\_\_\_\_  
Signature of Proposer's Agent

\_\_\_\_\_  
Signature of Florida Resident Agent

Agent's Errors and Omissions Policy:

\_\_\_\_\_  
Name and Location of Agency

\_\_\_\_\_  
Policy Company; Expiration Date; Amount  
of Coverage; Policy Number

## **Form 6. Public Entity Crimes Affidavit**

### **SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

**THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.**

1. This sworn statement is submitted to the City of Hialeah, Florida, by \_\_\_\_\_

\_\_\_\_\_  
(print individual's name and title)

For \_\_\_\_\_  
(print name of entity submitting sworn statement)

whose business address is \_\_\_\_\_  
\_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_

(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_.)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1) (g), **Florida Statutes**, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1) (b), **Florida Statutes**, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non jury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133 (1) (a), **Florida Statutes**, means:
1. A predecessor or successor of a person convicted of a public entity crime; or
  2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133 (1) (e) **Florida Statutes**, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bid or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business

with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement **(INDICATE WHICH STATEMENT APPLIES)**.

\_\_\_\_ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administration Hearings and the Final Order entered by the Administrative Law Judge determined that it was not in the public interest to place the person or entity submitting this sworn statement on the convicted vendor list. (attach a copy of the final order)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_  
(signature)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Personally known \_\_\_\_\_

OR Produced Identification \_\_\_\_\_

\_\_\_\_\_  
(Type of identification)

\_\_\_\_\_  
Notary Public - State of \_\_\_\_\_

\_\_\_\_\_  
(Printed typed or stamped  
commissioned name of notary public)



## Form 7. Non-Collusion Affidavit

State of \_\_\_\_\_

County of \_\_\_\_\_

\_\_\_\_\_, being first duly sworn,  
deposes and says that:

- (1) He/She is \_\_\_\_\_ [title] of \_\_\_\_\_  
[name of entity], the Proposer that has submitted the attached proposal:
- (2) He/She is fully informed respecting the preparation and contents of the attached proposal and of all pertinent circumstances respecting such proposal:
- (3) Such proposal is genuine and is not a collusive or sham proposal;
- (4) Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed directly or indirectly with any other Proposer, firm or person to submit a collusive or sham proposal in connection with the Contract for which the attached proposal has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Proposer, firm or person, or to fix any overhead, profit or cost element of the proposal price or the proposal price any other Proposer, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the **City of Hialeah** or any person interested in the proposed Contract; and

The price or prices quoted in the attached proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Proposer or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Name) \_\_\_\_\_

Subscribed and sworn to before me

\_\_\_\_\_  
(Title)

This \_\_\_\_ day of \_\_\_\_\_, 2016

Title \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Title)

My commission expires \_\_\_\_\_

## **Form 8. Drug-Free Workplace**

The undersigned Proposer, in compliance with Section 287.087, Florida Statutes, hereby certifies that \_\_\_\_\_ does:

*(Name of Business)*

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are proposed a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign this statement, I hereby certify that the Proposer has established a drug-free workplace program that complies with the requirements set forth above pursuant to Section 287.087, Florida Statutes.

Name of Proposer: \_\_\_\_\_

Signature of Proposer's Agent \_\_\_\_\_

Printed Name of Proposer's Agent \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

### **Form 9. Acknowledgement of Addenda**

The Proposer hereby acknowledges the receipt of the following addenda, which were issued by the City and incorporated into and made part of this RFP. The Proposer acknowledges that it is solely responsible for ensuring that it is aware of, and in receipt of, all addenda.

ADDENDUM NUMBER	DATE RECEIVED	PRINT NAME OF PROPOSER'S AGENT	TITLE OF PROPOSER'S AGENT	SIGNATURE OF PROPOSER'S AGENT

## **Form 10. Certification to Accuracy of Proposal**

The undersigned individual, being duly sworn, hereby deposes and says:

1. I, \_\_\_\_\_ [insert name of Proposer's officer], am duly authorized to execute and submit this proposal on behalf \_\_\_\_\_ of \_\_\_\_\_ the \_\_\_\_\_ Proposer, \_\_\_\_\_ [insert name of Proposer].
2. I am fully informed respecting the preparation and contents of the attached proposal and all of the forms, affidavits, and documents submitted in support of such proposal.
  - a. All of the information contained in the forms, affidavits and documents submitted in support of this proposal is true and accurate;
  - b. No information that should have been included in such forms, affidavits and documents has been omitted; and
  - c. No information in such forms, affidavits or documents is false or misleading.
3. By signing and submitting this proposal in response to the City's RFP (RFP 2015-16-8500-36-002), the Proposer acknowledges and agrees that:
  - a. the Proposer has carefully read the RFP, including the "Agreement for Disaster Recovery and Debris Removal Services" ("Agreement");
  - b. the Proposer has become fully informed about the local conditions, including the nature and extent of the work to be performed, and has examined and evaluated all relevant issues;
  - c. the Proposer understands and accepts the conditions, limitations, and obligations imposed on the Proposer by the RFP and the Agreement;
  - d. the Proposer's proposal is not contingent upon any conditions, limitations, or changes to the RFP or Agreement;
  - e. the Proposer's proposal is a binding offer that will remain in effect and be available to the City for one hundred eighty (180) days after the submittal of this proposal;
  - f. if selected by the City, the Proposer shall execute the Agreement and provide the required insurance certificates and Performance Bond within fifteen (15) days of receiving the City's written notice of award;
  - g. if selected by the City, the Proposer will provide all of the services required under the Agreement, in compliance with the terms and conditions contained in the Agreement, at the Rates set forth on the Proposer's cost forms, which are attached to this proposal; and
  - h. the Proposer has sought and received the assistance of legal counsel, as necessary, before submitting this proposal in response to the City's RFP.

**Form 10. Certification to Accuracy of Proposal**  
**(CONTINUED)**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Name of Proposer

\_\_\_\_\_  
Signature of President/Partner/Owner/Manager

\_\_\_\_\_  
Printed Name of President/Partner/Owner/Manager and Title

\_\_\_\_\_  
Signature of Secretary

\_\_\_\_\_  
Printed Name of Secretary

The Proposer is a Partnership: \_\_\_\_\_; Corporation: \_\_\_\_\_; Limited Liability Corporation \_\_\_\_\_; or other business entity \_\_\_\_\_; and is authorized to do business in the State of Florida.

Witness my hand and official notary seal/stamp on \_\_\_\_\_ the day and year written above.

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_) SS:  
COUNTY OF \_\_\_\_\_)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared \_\_\_\_\_  
(name) as \_\_\_\_\_ (title), of \_\_\_\_\_  
\_\_\_\_\_ (Proposer), an organization authorized to do business in the State of Florida, and acknowledged and executed the foregoing document as

**Form 10. Certification to Accuracy of Proposal**  
**(CONTINUED)**

the proper official of \_\_\_\_\_ (Proposer) for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal in the State and County aforesaid on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

**Signature Instructions:**

All signatures must be in **BLUE** ink.

If the Proposer is a CORPORATION, the name of the corporation must be listed, in full, and both the President and Secretary must sign the form, OR if one signature is permitted by the corporation's by-laws, a copy of the by-laws must be furnished to the City as part of the proposal.

If the Proposer is a LIMITED LIABILITY CORPORATION, the name of the limited liability corporation must be listed in full, and the Manager or Managing Members must sign the form.

If the Proposer is a PARTNERSHIP, the full name of each partner should be listed, followed by the name that the Proposer is doing business as. Any partner may sign the form.

If the Proposer is operating as any other type of business entity, the name(s) of the Proposer's authorized representative(s) must be listed and the authorized representative(s) must sign the form. A copy of the appropriate documents evidencing legal binding authority to sign on behalf of the Proposer must be furnished to the City as part of the proposal.

## Form 11. Proposer Acknowledgment

<b>SUBMIT PROPOSALS TO:</b> CITY OF HIALEAH OFFICE OF THE CITY CLERK 501 PALM AVENUE, 3 <sup>rd</sup> Floor HIALEAH, FL 33010			CITY OF HIALEAH REQUEST FOR PROPOSALS Proposer Acknowledgment	
Page 1 of 3	Telephone Number  (305) 883-5857	Mailing Date	Proposal No.  2015-16-8500-36-002	
Proposal may not be withdrawn within 180 DAYS after the proposal opening.			Proposal Title  Disaster Recovery and Debris Removal Services	
All awards made as a result of this proposal shall conform to applicable Florida Statutes and City of Hialeah Charter and Ordinances			Reason for "no proposal"	
NAME OF VENDOR		AREA CODE	TELEPHONE NUMBER	
MAILING ADDRESS		BUSINESS ADDRESS		
CITY - STATE - ZIP CODE				
I certify that this proposal is made without prior understanding agreement, or connection with any corporation, firm or person submitting a proposal for the same materials, supplies, or equipment, and is in all respects fair and with-out collusion or fraud. I agree to abide by all conditions of this proposal and the Agreement. I certify that I am authorized to sign this proposal for the Proposer.		AUTHORIZED SIGNATURE (MANUAL)   AUTHORIZED SIGNATURE (TYPED) TITLE		

### GENERAL CONDITIONS

**SEALED PROPOSALS:** This form must be executed and submitted in a sealed envelope with the Proposer's Qualifications Package. Proposals not submitted with this proposal form may be rejected.

1. **EXECUTION OF PROPOSAL:** Each proposal must contain a manual signature of the Proposer's authorized representative in the space provided above.
2. **NO PROPOSAL:** If not submitting a proposal, respond by returning this form, marking it "No Proposal", and explain the reason in the space provided above. Repeated failure to quote, without sufficient justification, shall be cause for removal of the supplier's name from the proposal mailing list. Note: To qualify as a respondent, Proposer must submit a "No Proposal" and it must be received no later than the stated proposal opening date and hour.
3. **PROPOSAL OPENING:** Shall be at a public opening commencing at the time and date specified in the Solicitation. It is the Proposer's responsibility to assure that its proposal is delivered at the proper time and place of the proposal opening. Proposals which for any reason are not so delivered will not be considered. Offers by telegram or telephone are not acceptable.

4. **PROOF OF CAPABILITY:** The Proposer may be required before the award of any contract, to show to the complete satisfaction of the City Council that it has the necessary facilities, ability and financial resources to perform the proposal requirements in compliance with the Agreement.
5. **PATENTS AND ROYALTIES:** The Proposer, without exception, shall indemnify and save harmless the City of Hialeah and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process or article manufactured or used in the performance of the contract, including its use by the City of Hialeah, Florida. If the Proposer uses any design, device, or materials covered by letter, patent or copyright, it is mutually agreed and understood without exception that the proposal prices shall include all royalties or cost arising from the use of such design, device, or materials, in any way involved in the work.
6. **RATE OF WAGES:** When applicable, the rate of wages for work covered by a public contract for those employed by any contractor or subcontractor shall not be less than the prevailing rate of wages for similar skills or classifications or work in the City of Hialeah. The Division of Labor and Employment Opportunities, Tallahassee, Florida, will furnish the prevailing wage rates in the City of Hialeah, upon request.
7. **PRICES TERMS AND PAYMENT:** Firm prices shall be quoted; the prices shall be typed or printed in ink and shall include all charges, unless otherwise explicitly stipulated in the Agreement.
  - (a) **TAXES:** A Proposer shall include all applicable taxes in its proposal. A Proposer will not be excused from payment of state sales or transportation taxes or other applicable taxes. A Proposer shall not base a proposal price on an assumption that the City will utilize its tax exemption to purchase or order materials, equipment, etc. Any tax liability or tax payment resulting from any determination or interpretation of any law, rule, regulation or opinion is the sole responsibility of the Proposer.
  - (b) **DISCOUNTS:** Proposers may offer a cash discount for prompt payment; however, such discounts shall not be considered in determining the highest net price for proposal evaluation purposes. Proposers are encouraged to reflect cash discounts in the prices quoted.
  - (c) **MISTAKES:** Proposers are expected to examine the Agreement, specifications, delivery schedule, proposal prices, and all instructions pertaining to supplies and/or services. Failure to do so will be at Proposer's risk.
  - (d) **SAFETY STANDARDS:** All of Proposer's activities under the Agreement shall comply with the applicable requirements of the Occupational Safety and Health Act and any standards thereunder.
8. **AWARDS:** As the best interest of the City may require, the City reserves its right to make award(s), or reject any and all proposals, or waive any minor informality or technicality in proposals received.
9. **INFORMATION AND DESCRIPTIVE LITERATURE:** Proposers must furnish all information requested in the spaces provided on the proposal form. Each Proposer may submit with his proposal, descriptive literature and/or complete specifications covering the Proposer's facilities and equipment.
10. **INTERPRETATIONS:** Any questions concerning conditions and specifications shall be directed to the City, as provided in the Solicitation. Inquiries must reference the date of proposal opening and title. Failure to comply with this condition will result in Proposer waiving his right to dispute the Proposal specifications.
11. **PRICE ADJUSTMENTS:** Any price decrease effectuated during the contract period either by reason of market change or on the part of the Contractor to other customers shall be passed on to the City of Hialeah.



12. **ADVERTISING:** In submitting a proposal, Proposer agrees not to use the results therefrom as a part of any commercial advertising.
13. **LIABILITY:** The Proposer shall hold and save the City of Hialeah, its officers, agents, and employees harmless from liability of any kind in the performance of the Agreement.
14. **EQUAL EMPLOYMENT OPPORTUNITY:** The City of Hialeah endorses Equal Employment and incorporates the non-discrimination clause in this Request for Proposals.
15. **SPECIFICATION SILENCE:** Apparent silence on the specifications as to any details, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning only the best commercial practices will prevail and that only materials and workmanship of first quality are to be provided. All interpretations of the Specifications shall be made upon this statement.

**NOTE: THIS PROPOSAL CONSTITUTES AN OFFER FROM THE PROPOSER. IF ANY OR ALL PARTS OF THE PROPOSAL ARE ACCEPTED BY THE CITY OF HIALEAH, AN AUTHORIZED REPRESENTATIVE OF THE CITY SHALL AFFIX HIS/HER SIGNATURE TO THE AGREEMENT, WHICH SHALL THEN CONSTITUTE THE WRITTEN AGREEMENT BETWEEN THE PARTIES. THE CITY HEREBY RELIES UPON ANY REPRESENTATIONS BY THE PROPOSER AS ARE CONTAINED HEREIN.**

## **Form 12. City of Hialeah Disclosure Affidavit**

### **PURCHASING DIVISION CITY OF HIALEAH DISCLOSURE AFFIDAVIT**

I \_\_\_\_\_ being first duly sworn, state:

The full legal name and business address\* of the person or entity contracting or transacting business with the City of Hialeah are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

If the contract or business transaction is with a corporation, the full legal name and business address\* shall be provided for each officer and director and each stockholder who holds directly or indirectly five percent (5%) or more of the corporation's stock. If the contract or business transaction is with a partnership, the full legal name and business address\* shall be provided for each partner. If the contract or business transaction is with a trust, the full legal name and address\* shall be provided for each trustee and each beneficiary. All such names and addresses are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The full legal names and business addresses\* of every other individual (other than subcontractors, material men, suppliers, laborers, or lenders) who have, or will have, any interest (legal, equitable, beneficial or otherwise) in the contract or business transaction with the City of Hialeah are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Proposer's Tax ID Number (F.E.I.N) or Social Security Number: \_\_\_\_\_ - \_\_\_\_\_

### **PROOF OF CORPORATE STATUS**

Please provide proof of corporate status. Each corporate Proposer must demonstrate it is an active corporation in good standing in the State of Florida or any other State. If incorporated in a state other than Florida, then please provide proof that the corporation is registered to do business in the State of Florida in addition to proof of active corporate status. If incorporated in Florida, a computer print-out from the Department of State will be sufficient proof of corporate status. Proof of good standing also is required for all partnerships, limited partnerships, joint-ventures, etc.

LEGAL SIGNATURE OF AFFIANT \_\_\_\_\_ (Print or Type Legal Name of Affiant) \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Notary Public - State of: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Print/Type and Stamp commissioned name of Notary Public \_\_\_\_\_

**NOTARY SEAL**

Personally known \_ or Produced Identification \_

Type of Identification Produced \_\_\_\_\_

**\*\*Post office box addresses are not acceptable.**

### **Form 13. Assignment of Antitrust Claims**

For, and in recognition of, good and valuable consideration,, receipt of which is hereby acknowledged,

\_\_\_\_\_  
Company Name

acting herein by and through \_\_\_\_\_,  
Individual Name

its \_\_\_\_\_ and duly authorized agent,  
Title of Individual's Position

hereby conveys, sells, assigns and transfers to the City of Hialeah, Florida, all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Florida for price fixing, relating to the particular goods or services purchased or acquired by the City of Hialeah, Florida pursuant to the City's RFP No. \_\_\_\_\_ for Disaster Recovery Debris and Removal Services and the City's Agreement for Disaster Recovery Debris and Removal Services

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name of Company

# FORM 14. FHWA-1273

## EXHIBIT E

Revised May 1, 2012

FHWA-1273

### REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Government wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

#### ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development: Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

#### I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for

withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

#### II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific

Agreement No. 14-SAMPLE

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## EXHIBIT E

requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield

qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

## EXHIBIT E

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. **Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. **Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

### 10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. **Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate

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or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(ii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

#### 2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations

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have ceased.

### 3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as

set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

### 4. Apprentices and trainees

#### a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with



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the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

### b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT). Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and, for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

### 10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

### V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor

## EXHIBIT E

shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

### VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the

submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

### VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry

## EXHIBIT E

out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

### VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

### IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as

the contracting agency may direct as a means of enforcing such requirements.

### X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more - as defined in 2 CFR Parts 180 and 1200.

#### 1. Instructions for Certification - First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility

## EXHIBIT E

and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

### 2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
- (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and
- (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### 2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

### Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

### ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.



Appendix A

**PROPOSAL SUBMITTAL FORM**  
**DISASTER RECOVERY AND DEBRIS REMOVAL SERVICES**  
**RFP No.: 2015-16-8500-36-002**

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FEIN NO. : \_\_\_\_/\_\_\_\_-\_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_  
(Proposer's Federal Employer Identification Number) If none, Proposer's Social Security Number

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The undersigned Proposer certifies that this proposal is submitted in accordance with the proposal specifications and conditions governing this proposal, and that the Proposer will accept any award(s) made to him as a result of this proposal.

NAME OF  
PROPOSER: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP  
CODE: \_\_\_\_\_

TELEPHONE NO.: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

E-  
MAIL: \_\_\_\_\_

*By signing this document the Proposer agrees to all of the terms and conditions of this Solicitation and the Agreement.*

AUTHORIZED SIGNATURE \_\_\_\_\_ Date \_\_\_\_\_  
PERSON AUTHORIZED TO ENTER INTO CONTRACTUAL AGREEMENT FOR PROPOSER

PRINT NAME OF PROPOSER'S AUTHORIZED  
REPRESENTATIVE \_\_\_\_\_

TITLE OF PROPOSER'S AUTHORIZED  
REPRESENTATIVE \_\_\_\_\_

THE EXECUTION OF THIS FORM CONSTITUTES THE UNEQUIVOCAL OFFER OF PROPOSER TO BE BOUND BY THE TERMS OF ITS PROPOSAL AND THIS SOLICITATION. FAILURE TO SIGN THIS FORM WHERE INDICATED ABOVE BY AN AUTHORIZED REPRESENTATIVE SHALL RENDER THE PROPOSAL NON-RESPONSIVE. THE CITY MAY, HOWEVER, IN ITS SOLE DISCRETION, ACCEPT ANY PROPOSAL THAT INCLUDES AN EXECUTED DOCUMENT WHICH UNEQUIVOCALLY BINDS THE PROPOSER TO THE TERMS OF ITS OFFER.



**Appendix B**  
**SUBMITTAL CHECKLIST**

**DISASTER RECOVERY AND DEBRIS REMOVAL SERVICES**  
**RFP No.: 2015-16-8500-36-002**

This checklist is provided for Proposer's convenience only. It identifies the documents that must be completed and submitted with each proposal. Any proposal that fails to include one or more of these documents may be rejected as being non-responsive. Please be advised that this checklist may not necessarily include all of the requirements listed in this Solicitation. This checklist only provides guidelines for consideration, and may be added to as the need arises.

Proposer's Name: \_\_\_\_\_

QUALIFICATIONS PACKAGE		
	1 Proposer's Statement of Organization	
	2 Staffing	
	3 Subcontractors	
	4 Insurance Requirements	
	5 Insurance Check List	
	6 Public Entity Crimes Affidavit	
	7 Non-Collusion Affidavit	
	8 Drug-Free Workplace	
	9 Acknowledgment of Addenda	
	10 Certification to Accuracy of Proposal	
	11 Proposer's Acknowledgment	
	12 City of Hialeah Disclosure Affidavit	
	13 Assignment of Antitrust Claims	
	14 FHWA 1273	
	Appendix A – Proposal Submittal Form	
	Appendix B – Submittal Checklist	

Tab/Page No.	COST PACKAGE	OFFICE USE ONLY
	Appendix C: Cost Proposal and Price Schedule Form	
	Appendix C-1: Cost Proposal Hourly Labor Rates	
	Appendix C-2: Cost Proposal Equipment Rates	

<b>FOR PURCHASING OFFICE USE ONLY</b>		
<input type="checkbox"/> Responsive	<input type="checkbox"/> Non-Responsive	<input type="checkbox"/> Other: _____
Comment: _____		



## Appendix C

### COST PROPOSAL AND PRICE SCHEDULE FORM

#### DISASTER RECOVERY AND DEBRIS REMOVAL SERVICES RFP No.: 2015-16-8500-36-002

All prices noted in this form are considered baseline estimates. Actual prices that will be charged must be justified at the time a work authorization is approved. All costs must be based upon actual work performed and reasonable expenses for labor, equipment, material, and overhead. Under no circumstances will actual prices exceed the cost estimates included in this form, or exceed the reimbursable limits acceptable to FEMA, or exceed the amounts approved in a work authorization.

CATEGORY	FIELD NAME AND DESCRIPTION	UNIT	COST PER UNIT
VEGETATIVE COLLECT AND HAUL	0-15 Miles Veg. from Right of Way (ROW) to Temporary Debris Management Site (TDSRS) <i>Vegetative collect and removal for a haul distance up to 15.99 miles</i>	CY	
	16-30 Miles Veg from ROW to TDSRS <i>Vegetative collect and removal for a haul distance between 16 and 30.99 miles</i>	CY	
	31-60 Miles Veg from ROW to TDSRS <i>Vegetative collect and removal for a haul distance between 31 and 60.99 miles</i>	CY	
	60+ Miles Veg from ROW to TDSRS <i>Vegetative collect and removal for a haul distance greater than 60.99 miles</i>	CY	
	Single Price Veg from ROW to TDSRS <i>A single price vegetative collect and removal for any haul distance</i>	CY	
MANAGEMENT AND REDUCTION	Grinding <i>Grinding/chipping vegetative Debris</i>	CY	
	Air Curtain Burning <i>Air Curtain Burning vegetative Debris</i>	CY	
	Open Burning <i>Open Burning vegetative Debris</i>	CY	
	Compacting <i>Compacting vegetative Debris</i>	CY	
	Temporary Debris Management Site <i>Preparation, management, and segregating at Debris management site</i>	CY	



<b>C&amp;D COLLECT AND HAUL</b>	0-15 Miles C&D from ROW to TDSRS <i>C&amp;D collect and removal for a haul distance up to 15.99 miles</i>	<b>CY</b>	
	16-30 Miles C&D from ROW to TDSRS <i>C&amp;D collect and removal for a haul distance between 16 and 30.99 miles</i>	<b>CY</b>	
	31-60 Miles C&D from ROW to TDSRS <i>C&amp;D collect and removal for a haul distance between 31 and 60.99 miles</i>	<b>CY</b>	
	60+ Miles C&D from ROW to TDSRS <i>C&amp;D collect and removal for a haul distance greater than 60.99 miles</i>	<b>CY</b>	
	Single Price C&D from ROW to TDSRS <i>A single price C&amp;D collect and removal for any haul distance</i>	<b>CY</b>	
<b>FINAL DISPOSAL</b>	0-15 Miles from TDSRS to Final Disposal <i>Transport processed Debris from TDSRS to final disposal 0-15.99 miles</i>	<b>CY</b>	
	16-30 Miles from TDSRS to Final Disposal <i>Transport processed Debris from TDSRS to final disposal 16-30.99 miles</i>	<b>CY</b>	
	31-60 Miles from TDSRS to Final Disposal <i>Transport processed Debris from TDSRS to final disposal 31-60.99 miles</i>	<b>CY</b>	
	60+ Miles from TDSRS to Final Disposal <i>Transport processed Debris from TDSRS to final disposal greater than 60.99 miles</i>	<b>CY</b>	
	Single Price from TDSRS to Final Disposal <i>A single price Transport processed Debris from TDSRS to final disposal</i>	<b>CY</b>	
	Tipping Fees (Vegetative) <i>Fee includes negotiated contract price of pass through amount for vegetative</i>	<b>CY</b>	
	Tipping Fees (Mix) <i>Fee includes negotiated contract price of pass through amount for Mix</i>	<b>CY</b>	
	Tipping Fees (C&D) <i>Fee includes negotiated contract price of pass through amount for C&amp;D</i>	<b>CY</b>	

<b>TREE/STUMPS OPERATIONS</b>	Hazardous Trees 6"-12" <i>Hazardous tree removal for a 6-12 inch trunk diameter</i>	<b>Tree</b>	
	Hazardous Trees 13"-24" <i>Hazardous tree removal for a 13-24 inch trunk diameter</i>	<b>Tree</b>	
	Hazardous Trees 25"-36" <i>Hazardous tree removal for a 25-36 inch trunk diameter</i>	<b>Tree</b>	
	Hazardous Trees 37"-48" <i>Hazardous tree removal for a 37-48 inch trunk diameter</i>	<b>Tree</b>	
	Hazardous Trees 49"+ <i>Hazardous tree removal for a 40+ inch trunk diameter</i>	<b>Tree</b>	
	Trees with Hazardous Limbs >2" <i>Hazardous hanging limb removal</i>	<b>Tree</b>	
	Hazardous Stumps >24"-36" <i>Hazardous Stump removal of a Stump with a 24-36 inch diameter Stumps with &lt;24" inch diameter shall be treated as normal Vegetative Debris)</i>	<b>Stump</b>	
	Hazardous Stumps >37"-48" <i>Hazardous Stump removal of a Stump with a 37-48 inch diameter</i>	<b>Stump</b>	
	Hazardous Stumps >49" <i>Hazardous Stump removal of a Stump with a 49+inch diameter</i>	<b>Stump</b>	
<b>SPECIALTY REMOVAL AND ADDITIONAL SERVICES</b>	Stump Fill Dirt <i>Fill dirt for Stump holes after removal</i>	<b>CY</b>	
	Waterway Debris Removal <i>Debris Removal from canals, rivers, creeks, streams, and ditches</i>	<b>CY</b>	
	Vehicle Removal <i>Removal of eligible vehicle. Including towing and processing.</i>	<b>Unit</b>	
	Vessel Removal (Land) <i>Removal of eligible vessel. Including processing.</i>	<b>Lineal Foot (LF)</b>	
	ROW White Goods removal <i>Pick up and haul of white goods to disposal site within the County</i>	<b>Unit</b>	
	Freon Management <i>Freon management and recycling</i>	<b>Unit</b>	
	Putrescent Removal <i>Removal, transportation and disposal of Debris that will decompose or rot (animals and organic fleshy matter)</i>		
	Hazardous Waste <i>Collection, removal, transportation, processing and disposal of Hazardous Waste</i>	<b>Pound</b>	
	Ice <i>Per pound delivered</i>	<b>Pound</b>	
	Water <i>Per gallon delivered</i>	<b>Gallon</b>	
	Emergency Fuel Gasoline <i>Per gallon delivered</i>	<b>Gallon</b>	



**Appendix C-1**

**COST PROPOSAL HOURLY LABOR RATES**

**DISASTER RECOVERY AND DEBRIS REMOVAL SERVICES  
RFP No.: 2015-16-8500-36-002**

Proposer shall provide hourly rates for key personnel and other personnel comprised in its organizational structure and operational plan not previously included in this Form. Proposer shall invoice the City using hourly rates only during events that are not declared emergencies and during the first seventy (70) hours after a declared emergency.

<b>LABOR CATEGORY</b>	<b>JOB DESCRIPTION</b>	<b>HOURLY LABOR RATE (U.S. DOLLARS)</b>

Use additional sheets if necessary.



## Appendix C-2

### COST PROPOSAL EQUIPMENT RATES

#### **DISASTER RECOVERY AND DEBRIS REMOVAL SERVICES RFP No.: 2015-16-8500-36-002**

The rates on this Schedule of Equipment Rates are for applicant-owned equipment in good mechanical condition, complete with all required attachments. Each rate covers all costs eligible under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121, et seq., for ownership and operation of equipment, including depreciation, overhead, all maintenance, field repairs, fuel, lubricants, tires, OSHA equipment and other costs incidental to operation. Equipment must be in actual operation performing eligible work. **LABOR COSTS OF OPERATOR ARE NOT INCLUDED** in the rates and should be approved separately from equipment costs. If Proposer does not have in inventory or intend to use specific equipment, it should indicate so by including "Non-Applicable" or "N/A" in the Rate column.

EQUIPMENT	SPECIFICATION	CAPACITY/ SIZE	HP	NOTES	UNIT	RATE
Aerial Lift, Self-Propelled	Max. Platform Height	37 ft	to 15	Articulated, Telescoping, Scissor.	Hour	
Aerial Lift, Self-Propelled	Max. Platform Height	60 ft	to 30	Articulated, Telescoping, Scissor.	Hour	
Aerial Lift, Self-Propelled	Max. Platform Height	70 ft	to 50	Articulated, Telescoping, Scissor.	Hour	
Aerial Lift, Self-Propelled	Max. Platform Height	125 ft	to 85	Articulated and Telescoping.	Hour	
Aerial Lift, Self-Propelled	Max. Platform Height	150 ft	to 130	Articulated and Telescoping.	Hour	
Aerial Lift, Truck Mntd	Max. Platform Height	40 ft		Articulated and Telescoping. Add to	Hour	
Aerial Lift, Truck Mntd	Max. Platform Height	61 ft		Articulated and Telescoping. Add to	Hour	
Aerial Lift, Truck Mntd	Max. Platform Height	80 ft		Articulated and Telescoping. Add to	Hour	
Aerial Lift, Truck Mntd	Max. Platform Height	100 ft		Articulated and Telescoping. Add to	Hour	
Air Compressor	Air Delivery	41 cfm	to 10	Hoses included.	Hour	
Air Compressor	Air Delivery	103 cfm	to 30	Hoses included.	Hour	
Air Compressor	Air Delivery	130 cfm	to 50	Hoses included.	Hour	
Air Compressor	Air Delivery	175 cfm	to 90	Hoses included.	Hour	
Air Compressor	Air Delivery	400 cfm	to 145	Hoses included.	Hour	
Air Compressor	Air Delivery	575 cfm	to 230	Hoses included.	Hour	
Air Compressor	Air Delivery	1100 cfm	to 355	Hoses included.	Hour	

Air Compressor	Air Delivery	1600 cfm	to 500	Hoses included.	Hour	
Auger, Portable	Hole Diameter	16 in	to 6		Hour	
Auger, Portable	Hole Diameter	18 in	to 13		Hour	
Auger, Tractor Mntd	Max. Auger Diameter	36 in	to 13	Includes digger, boom and mounting hardware. Add to Tractor rate for total rate.	Hour	
Auger, Truck Mntd	Max. Auger Size	24 in	to 100	Includes digger, boom and mounting hardware. Add to Truck rate for total rate.	Hour	
Automobile			to 130	Transporting people.	Mile	
Automobile			to 130	Transporting cargo.	Hour	
Barge, Deck	Size	50'x35'x7.25'			Hour	
Barge, Deck	Size	50'x35'x9'			Hour	
Barge, Deck	Size	120'x45'x10'			Hour	
Barge, Deck	Size	160'x45'x11'			Hour	
Board, Arrow			to 8	Trailer Mounted.	Hour	
Board, Message			to 5	Trailer Mounted.	Hour	
Boat, Push	Size	45'x21'x6'	to 435	Flat hull.	Hour	
Boat, Push	Size	54'x21'x6'	to 525	Flat hull.	Hour	
Boat, Push	Size	58'x24'x7.5'	to 705	Flat hull.	Hour	
Boat, Push	Size	64'x25'x8'	to 870	Flat hull.	Hour	
Boat, Row				Heavy duty.	Hour	
Boat, Runabout	Size	13'x5'	to 50	Outboard.	Hour	
Boat, Tender	Size	14'x7'	to 100	Inboard with 360 degree drive.	Hour	
Boat, Tow	Size	55'x20'x5'	to 870	Steel.	Hour	
Boat, Tow	Size	60'x21'x5'	to 1050	Steel.	Hour	
Boat, Tow	Size	70'x30'x7.5'	to 1350	Steel.	Hour	
Boat, Tow	Size	120'x34'x8'	to 2000	Steel.	Hour	
Boat, Tug	Length	16 ft	to 100		Hour	
Boat, Tug	Length	18 ft	to 175		Hour	
Boat, Tug	Length	26 ft	to 250		Hour	

Boat, Tug	Length	40 ft	to 380		Hour	
Boat, Tug	Length	51 ft	to 700		Hour	
Breaker, Pavement, Hand-Held	Weight	25-90 lb			Hour	
Breaker, Pavement			to 70		Hour	
Broom, Pavement	Broom Length	72 in	to 35		Hour	
Broom, Pavement	Broom Length	96 in	to 100		Hour	
Broom, Pavement, Mntd	Broom Length	72 in	to 18	Add to Prime Mover rate for total rate.	Hour	
Broom, Pavement, Pull	Broom Length	84 in	to 20	Add to Prime Mover rate for total rate.	Hour	
Bucket, Clamshell	Capacity	1.0 cy		Includes teeth. Does not include Clamshell & Dragline..	Hour	
Bucket, Clamshell	Capacity	2.5 cy		Includes teeth. Does not include Clamshell & Dragline.	Hour	
Bucket, Clamshell	Capacity	5.0 cy		Includes teeth. Does not include Clamshell & Dragline.	Hour	
Bucket, Clamshell	Capacity	7.5 cy		Includes teeth. Does not include Clamshell & Dragline.	Hour	
Bucket, Dragline	Capacity	2.0 cy		Does not include Clamshell & Dragline.	Hour	
Bucket, Dragline	Capacity	5.0 cy		Does not include Clamshell & Dragline.	Hour	
Bucket, Dragline	Capacity	10 cy		Does not include Clamshell & Dragline.	Hour	
Bucket, Dragline	Capacity	14 cy		Does not include Clamshell & Dragline.	Hour	
Bus			to 150		Hour	
Bus			to 210		Hour	
Bus			to 300		Hour	
Chain Saw	Bar Length	16 in			Hour	
Chain Saw	Bar Length	25 in			Hour	
Chain Saw, Pole	Bar Size	18 in			Hour	
Chipper, Brush	Chipping Capacity	6 in	to 35	Trailer Mounted.	Hour	
Chipper, Brush	Chipping Capacity	9 in	to 65	Trailer Mounted.	Hour	
Chipper, Brush	Chipping Capacity	12 in	to 100	Trailer Mounted.	Hour	
Chipper, Brush	Chipping Capacity	15 in	to 125	Trailer Mounted.	Hour	
Chipper, Brush	Chipping Capacity	18 in	to 200	Trailer Mounted.	Hour	
Clamshell & Dragline, Crawler		149,999 lb	to 235	Bucket not included in rate.	Hour	
Clamshell & Dragline, Crawler		250,000 lb	to 520	Bucket not included in rate.	Hour	

Clamshell & Dragline, Truck			to 240	Bucket not included in rate.	Hour	
Cleaner, Sewer/Catch Basin	Hopper Capacity	5 cy		Truck Mounted. Add to Truck rate for total rate.	Hour	
Cleaner, Sewer/Catch Basin	Hopper Capacity	14 cy		Truck Mounted. Add to Truck rate for total rate.	Hour	
Compactor			to 10		Hour	
Compactor, Towed, Vibratory Drum			to 45		Hour	
Compactor, Vibratory, Drum			to 75		Hour	
Compactor, Pneumatic, Wheel			to 100		Hour	
Compactor, Sanitation			to 300		Hour	
Compactor, Sanitation			to 400		Hour	
Compactor, Sanitation			to 535		Hour	
Compactor, Towed, Pneumatic, Wheel		10000 lb		Add to Prime Mover rate for total rate.	Hour	
Compactor, Towed, Drum Static		20000 lb		Add to Prime Mover rate for total rate.	Hour	
Crane	Max. Lift Capacity	8 MT	to 80		Hour	
Crane	Max. Lift Capacity	15 MT	to 150		Hour	
Crane	Max. Lift Capacity	50 MT	to 200		Hour	
Crane	Max. Lift Capacity	70 MT	to 300		Hour	
Crane	Max. Lift Capacity	110 MT	to 350		Hour	
Crane, Truck Mntd	Max. Lift Capacity	24000 lb		Add to Truck rate for total rate.	Hour	
Crane, Truck Mntd	Max. Lift Capacity	36000 lb		Add to Truck rate for total rate.	Hour	
Crane, Truck Mntd	Max. Lift Capacity	60000 lb		Add to Truck rate for total rate.	Hour	
Cutter, Brush	Cutter Size	8 ft	to 150		Hour	
Cutter, Brush	Cutter Size	8 ft	to 190		Hour	
Cutter, Brush	Cutter Size	10 ft	to 245		Hour	
Derrick, Hydraulic Digger	Max. Boom Length	60 ft		Includes hydraulic pole alignment attachment. Add to Truck rate.	Hour	
Derrick, Hydraulic Digger	Max. Boom Length	90 ft		Includes hydraulic pole alignment attachment. Add to Truck rate.	Hour	
Distributor, Asphalt	Tank Capacity	500 gal		Insulated tank, and circulating spray bar.	Hour	
Distributor, Asphalt	Tank Capacity	1000 gal		Truck Mounted. Includes burners, insulated tank, and circulating spray bar. Add to Truck rate.	Hour	

Distributor, Asphalt	Tank Capacity	4000 gal		Truck Mounted. Includes burners, insulated tank, and circulating spray bar. Add to Truck rate.	Hour	
Dozer, Crawler			to 75		Hour	
Dozer, Crawler			to 105		Hour	
Dozer, Crawler			to 160		Hour	
Dozer, Crawler			to 250		Hour	
Dozer, Crawler			to 360		Hour	
Dozer, Crawler			to 565		Hour	
Dozer, Crawler			to 850		Hour	
Dozer, Wheel			to 300		Hour	
Dozer, Wheel			to 400		Hour	
Dozer, Wheel			to 500		Hour	
Dozer, Wheel			to 625		Hour	
Excavator, Hydraulic	Bucket Capacity	0.5 cy	to 45	Crawler, Truck & Wheel. Includes bucket.	Hour	
Excavator, Hydraulic	Bucket Capacity	1.0 cy	to 90	Crawler, Truck & Wheel. Includes bucket.	Hour	
Excavator, Hydraulic	Bucket Capacity	1.5 cy	to 160	Crawler, Truck & Wheel. Includes bucket.	Hour	
Excavator, Hydraulic	Bucket Capacity	2.5 cy	to 265	Crawler, Truck & Wheel. Includes bucket.	Hour	
Excavator, Hydraulic	Bucket Capacity	4.5 cy	to 420	Crawler, Truck & Wheel. Includes bucket.	Hour	
Excavator, Hydraulic	Bucket Capacity	7.5 cy	to 650	Crawler, Truck & Wheel. Includes bucket.	Hour	
Excavator, Hydraulic	Bucket Capacity	12 cy	to 1000	Crawler, Truck & Wheel. Includes bucket.	Hour	
Feeder, Grizzly			to 35		Hour	
Feeder, Grizzly			to 55		Hour	
Feeder, Grizzly			to 75		Hour	
Fork Lift	Capacity	6000 lb	to 60		Hour	
Fork Lift	Capacity	12000 lb	to 90		Hour	
Fork Lift	Capacity	18000 lb	to 140		Hour	
Fork Lift	Capacity	50000 lb	to 215		Hour	
Generator	Prime Output	5.5 kW	to 10		Hour	
Generator	Prime Output	16 kW	to 25		Hour	
Generator	Prime Output	43 kW	to 65		Hour	



Generator	Prime Output	100 kW	to 125		Hour	
Generator	Prime Output	150 kW	to 240		Hour	
Generator	Prime Output	210 kW	to 300		Hour	
Generator	Prime Output	280 kW	to 400		Hour	
Generator	Prime Output	350 kW	to 500		Hour	
Generator	Prime Output	530 kW	to 750		Hour	
Generator	Prime Output	710 kW	to 1000		Hour	
Generator	Prime Output	1100 kW	to 1500		Hour	
Generator	Prime Output	2500 kW	to 3000		Hour	
Golf Cart	Capacity	2 person			Hour	
Graders	Moldboard Size	10 ft	to 110	Includes Rigid and Articulate	Hour	
Graders	Moldboard Size	12 ft	to 150	Includes Rigid and Articulate	Hour	
Graders	Moldboard Size	14 ft	to 225	Includes Rigid and Articulate	Hour	
Hose, Discharge	Diameter	3 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Discharge	Diameter	4 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Discharge	Diameter	6 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Discharge	Diameter	8 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Discharge	Diameter	12 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Discharge	Diameter	16 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Suction	Diameter	3 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Suction	Diameter	4 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Suction	Diameter	6 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Suction	Diameter	8 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Suction	Diameter	12 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Suction	Diameter	16 in		Per 25 foot length. Includes couplings.	Hour	
Jackhammer (Dry)	Weight Class	25-45 lb			Hour	
Jackhammer (Wet)	Weight Class	30-55 lb			Hour	
Loader, Crawler	Bucket Capacity	0.5 cy	to 32	Includes bucket.	Hour	
Loader, Crawler	Bucket Capacity	1 cy	to 60	Includes bucket.	Hour	

Loader, Crawler	Bucket Capacity	2 cy	to 118	Includes bucket.	Hour	
Loader, Crawler	Bucket Capacity	3 cy	to 178	Includes bucket.	Hour	
Loader, Crawler	Bucket Capacity	4 cy	to 238	Includes bucket.	Hour	
Loader, Skid-Steer	Operating Capacity	1000 lb	to 35		Hour	
Loader, Skid-Steer	Operating Capacity	2000 lb	to 65		Hour	
Loader, Skid-Steer	Operating Capacity	3000 lb	to 85		Hour	
Loader, Tractor, Wheel			to 81		Hour	
Loader, Wheel	Bucket Capacity	0.5 cy	to 38		Hour	
Loader, Wheel	Bucket Capacity	1 cy	to 60		Hour	
Loader, Wheel	Bucket Capacity	2 cy	to 105		Hour	
Loader, Wheel	Bucket Capacity	3 cy	to 152		Hour	
Loader, Wheel	Bucket Capacity	4 cy	to 200		Hour	
Loader, Wheel	Bucket Capacity	5 cy	to 250		Hour	
Loader, Wheel	Bucket Capacity	6 cy	to 305		Hour	
Loader, Wheel	Bucket Capacity	7 cy	to 360		Hour	
Loader, Wheel	Bucket Capacity	8 cy	to 530		Hour	
Loader-Backhoe, Wheel	Loader Bucket Capacity	0.5 cy	to 40	Loader and Backhoe Buckets included.	Hour	
Loader-Backhoe, Wheel	Loader Bucket Capacity	1 cy	to 70	Loader and Backhoe Buckets included.	Hour	
Loader-Backhoe, Wheel	Loader Bucket Capacity	1.5 cy	to 95	Loader and Backhoe Buckets included.	Hour	
Loader-Backhoe, Wheel	Loader Bucket Capacity	1.75 cy	to 115	Loader and Backhoe Buckets included.	Hour	
Mixer, Concrete Portable	Batching Capacity	10 cft			Hour	
Mixer, Concrete Portable	Batching Capacity	12 cft			Hour	
Mixer, Concrete, Trailer	Batching Capacity	11 cft	to 10		Hour	
Mixer, Concrete, Trailer	Batching Capacity	16 cft	to 25		Hour	
Mulcher, Trailer Mntd	Working Capacity	7 tph	to 35		Hour	
Mulcher, Trailer Mntd	Working Capacity	10 tph	to 55		Hour	
Mulcher, Trailer Mntd	Working Capacity	20 tph	to 120		Hour	
Paver, Asphalt, Towed				Does not include Prime Mover.	Hour	
Paver, Asphalt			to 50	Includes wheel and crawler equipment.	Hour	

Paver, Asphalt			to 125	Includes wheel and crawler equipment.	Hour	
Paver, Asphalt			to 175	Includes wheel and crawler equipment.	Hour	
Paver, Asphalt			to 250	Includes wheel and crawler equipment.	Hour	
Pick-up, Asphalt			to 110		Hour	
Pick-up, Asphalt			to 150		Hour	
Pick-up, Asphalt			to 200		Hour	
Pick-up, Asphalt			to 275		Hour	
Plow, Cable	Plow Depth	24 in	to 30		Hour	
Plow, Cable	Plow Depth	36 in	to 65		Hour	
Plow, Cable	Plow Depth	48 in	to 110		Hour	
Plow, Snow, Grader Mntd	Width	to 10 ft		Add to Grader for total rate.	Hour	
Plow, Snow, Grader Mntd	Width	to 14 ft		Add to Grader for total rate.	Hour	
Plow, Snow, Truck Mntd	Width	to 15 ft		Add to Truck rate for total rate.	Hour	
Plow, Snow, Truck Mntd	Width	to 15 ft		With leveling wing. Add to Truck rate for total rate.	Hour	
Pump			to 4	Does not include Hoses.	Hour	
Pump			to 6	Does not include Hoses.	Hour	
Pump			to 10	Does not include Hoses.	Hour	
Pump			to 15	Does not include Hoses.	Hour	
Pump			to 25	Does not include Hoses.	Hour	
Pump			to 40	Does not include Hoses.	Hour	
Pump			to 60	Does not include Hoses.	Hour	
Pump			to 95	Does not include Hoses.	Hour	
Pump			to 140	Does not include Hoses.	Hour	
Pump			to 200	Does not include Hoses.	Hour	
Pump			to 275	Does not include Hoses.	Hour	
Pump			to 350	Does not include Hoses.	Hour	
Pump			to 425	Does not include Hoses.	Hour	
Pump			to 500	Does not include Hoses.	Hour	
Pump			to 575	Does not include Hoses.	Hour	

Pump			to 650	Does not include Hoses.	Hour	
Saw, Concrete	Blade Diameter	14 in	to 14		Hour	
Saw, Concrete	Blade Diameter	26 in	to 35		Hour	
Saw, Concrete	Blade Diameter	48 in	to 65		Hour	
Saw, Rock			to 100		Hour	
Saw, Rock			to 200		Hour	
Scraper	Scraper Capacity	16 cy	to 250		Hour	
Scraper	Scraper Capacity	23 cy	to 365		Hour	
Scraper	Scraper Capacity	34 cy	to 475		Hour	
Scraper	Scraper Capacity	44 cy	to 600		Hour	
Snow Blower	Capacity	2,000 tph	to 400		Hour	
Snow Blower	Capacity	2,500 tph	to 500		Hour	
Snow Blower	Capacity	3,500 tph	to 600		Hour	
Snow Blower, Truck Mntd	Capacity	600 tph	to 75	Does not include Truck.	Hour	
Snow Blower, Truck Mntd	Capacity	1400 tph	to 200	Does not include Truck.	Hour	
Snow Blower, Truck Mntd	Capacity	2000 tph	to 340	Does not include Truck.	Hour	
Snow Blower, Truck Mntd	Capacity	2500 tph	to 400	Does not include Truck.	Hour	
Snow Thrower, Walk Behind	Cutting Width	25 in	to 5		Hour	
Snow Thrower, Walk Behind	Cutting Width	60 in	to 15		Hour	
Sprayer, Seed	Working Capacity	750 gal	to 30	Trailer & Truck mounted. Does not include Prime Mover.	Hour	
Sprayer, Seed	Working Capacity	1250 gal	to 50	Trailer & Truck mounted. Does not include Prime Mover.	Hour	
Sprayer, Seed	Working Capacity	3500 gal	to 115	Trailer & Truck mounted. Does not include Prime Mover.	Hour	
Spreader, Chemical	Capacity	5 cy	to 4	Trailer & Truck mounted. Does not	Hour	
Spreader, Chip	Spread Hopper Width	12.5 ft	to 152		Hour	
Spreader, Chip	Spread Hopper Width	16.5 ft	to 215		Hour	

Spreader, Chip, Mntd	Hopper Size	8 ft	to 8	Trailer & Truck mounted.	Hour	
Spreader, Sand	Mounting	Tailgate, Chassis			Hour	
Spreader, Sand	Mounting	Dump Body			Hour	
Spreader, Sand	Mounting	Truck (10 yd)			Hour	
Striper	Paint Capacity	40 gal	to 22		Hour	
Striper	Paint Capacity	90 gal	to 60		Hour	
Striper	Paint Capacity	120 gal	to 122		Hour	
Striper, Truck Mntd	Paint Capacity	120 gal	to 460		Hour	
Striper, Walk-behind	Paint Capacity	12 gal			Hour	
Sweeper, Pavement			to 110		Hour	
Sweeper, Pavement			to 230		Hour	
Trailer, Dump	Capacity	20 cy		Does not include Prime Mover.	Hour	
Trailer, Dump	Capacity	30 cy		Does not include Prime Mover.	Hour	
Trailer, Equipment	Capacity	30 ton			Hour	
Trailer, Equipment	Capacity	40 ton			Hour	
Trailer, Equipment	Capacity	60 ton			Hour	
Trailer, Equipment	Capacity	120 ton			Hour	
Trailer, Office	Trailer Size	8' x 24'			Hour	
Trailer, Office	Trailer Size	8' x 32'			Hour	
Trailer, Office	Trailer Size	10' x 32'			Hour	
Trailer, Water	Tank Capacity	4000 gal		Includes a centrifugal pump with sump and a rear spraybar.	Hour	
Trailer, Water	Tank Capacity	6000 gal		Includes a centrifugal pump with sump and a rear spraybar.	Hour	
Trailer, Water	Tank Capacity	10000 gal		Includes a centrifugal pump with sump and a rear spraybar.	Hour	
Trailer, Water	Tank Capacity	14000 gal		Includes a centrifugal pump with sump and a rear spraybar.	Hour	
Trencher			to 40	Walk-behind, Crawler & Wheel Mounted. Chain and Wheel.	Hour	
Trencher			to 85	Walk-behind, Crawler & Wheel Mounted. Chain and Wheel.	Hour	
Trowel, Concrete	Diameter	48 in	to 12		Hour	

Truck, Concrete Mixer	Mixer Capacity	13 cy	to 300		Hour	
Truck, Dump	Struck Capacity	8 cy	to 220		Hour	
Truck, Dump	Struck Capacity	10 cy	to 320		Hour	
Truck, Dump	Struck Capacity	12 cy	to 400		Hour	
Truck, Dump	Struck Capacity	18 cy	to 400		Hour	
Truck, Dump, Off	Struck Capacity	28 cy	to 450		Hour	
Truck, Fire	Pump Capacity	1000 gpm			Hour	
Truck, Fire	Pump Capacity	1250 gpm			Hour	
Truck, Fire	Pump Capacity	1500 gpm			Hour	
Truck, Fire	Pump Capacity	2000 gpm			Hour	
Truck, Fire Ladder	Ladder length	75 ft			Hour	
Truck, Fire Ladder	Ladder length	150 ft			Hour	
Truck, Flatbed	Maximum Gvw	15000 lb	to 200		Hour	
Truck, Flatbed	Maximum Gvw	25000 lb	to 275		Hour	
Truck, Flatbed	Maximum Gvw	30000 lb	to 300		Hour	
Truck, Flatbed	Maximum Gvw	45000 lb	to 380		Hour	
Truck, Garbage	Capacity	25 cy	to 255		Hour	
Truck, Garbage	Capacity	32 cy	to 325		Hour	
Truck, Pickup				Transporting people.	Mile	
Truck, Pickup		½ ton			Hour	
Truck, Pickup		1 ton			Hour	
Truck, Pickup		1¼ ton			Hour	
Truck, Pickup		1½ ton			Hour	
Truck, Pickup		1¾ ton			Hour	
Truck, Tractor	4 x 2	30000 lb	to 220		Hour	
Truck, Tractor	4 x 2	45000 lb	to 310		Hour	
Truck, Tractor	6 x 4	50000 lb	to 400		Hour	
Truck, Water	Tank Capacity	2500 gal	to 175	Include pump and rear spray system.	Hour	
Truck, Water	Tank Capacity	4000 gal	to 250	Include pump and rear spray system.	Hour	

Tub Grinder			to 440		Hour	
Tub Grinder			to 630		Hour	
Tub Grinder			to 760		Hour	
Tub Grinder			to 1000		Hour	
Vehicle, Recreational			to 10		Hour	
Vehicle, Small			to 30		Hour	
Vibrator, Concrete			to 4		Hour	
Welder, Portable			to 16	Includes ground cable and lead cable.	Hour	
Welder, Portable			to 34	Includes ground cable and lead cable.	Hour	
Welder, Portable			to 50	Includes ground cable and lead cable.	Hour	
Welder, Portable			to 80	Includes ground cable and lead cable.	Hour	

Use additional sheets if necessary.

\_\_\_\_\_  
Name of Proposer (Please Print)

\_\_\_\_\_  
Name of Proposer's Agent (Please Print)

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Signature of Proposer's Agent

\_\_\_\_\_  
Date:

WITNESSES

\_\_\_\_\_  
Witness Name (Please Print)

\_\_\_\_\_  
Witness Name (Please Print)

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Signature

## SECTION 6.0 GUIDELINES AND GENERAL INFORMATION

### 6.1 CITY OVERVIEW

Hialeah, Florida is a diverse community, ideally located midway between Miami and Fort Lauderdale and encompasses approximately 23 square miles. As the fifth largest city in the State of Florida, Hialeah is committed to growth in its business community, while also focusing on issues such as education, the arts, leisure activities and sustainability to provide a viable future for our residents and preserve the City's rich history since its incorporation in 1925.

The City currently has 1300+ employees and provides a wide range of governmental services including public safety/police services, parks and recreation, public works, water and sewer, planning, building and zoning, code enforcement, and community development to its citizens.

The City is a very large consumer of goods and services and the purchasing decisions of our employees and contractors can positively or negatively affect the environment. By including environmental considerations in our procurement decisions, along with our traditional concerns with price, performance and availability, we will remain fiscally responsible while promoting practices that improve public health and safety, reduce pollution, and conserve natural resources.

### 6.2 DEFINITIONS

Capitalized words and phrases in this RFP are defined in Section 1, above, and in the Agreement that is contained in Section 7, below. In addition, the following terms, phrases, words and their derivations shall have the meaning given herein:

- a) **'Award'** means the acceptance of a bid, offer, or Proposal by the City Council of the City of Hialeah.
- b) **'Successful Proposer'** means the Proposer that receives an award of the Agreement from the City as a result of this Request for Proposals.
- c) **'Proposer'** means the person, company, entity or organization submitting a proposal in response to this Request for Proposals.
- d) **'Solicitation'** means this Request for Proposals.
- e) **'Work', 'Services', 'Program', 'Project', or 'Engagement'** mean all matters and things that will require to be done by the Successful Proposer(s) in accordance with the scope of work

and all terms and conditions of this Request for Proposals.

### 6.3 INVITATION

This Request for Proposals is extended to any person, company, and organization that can satisfy the requirement(s) specified herein. The requirements presented in this Request for Proposals represent the City's anticipated needs.

### 6.4 PUBLIC ENTITY CRIME/ DISCRIMINATORY VENDOR LIST

The *Public Entity Crime Affidavit Form, (Form "6")* attached to this Request for Proposals, includes documentation that shall be executed by an individual authorized to bind the Proposer. Any Proposer, or any of its suppliers, subcontractors, or consultants who shall provide goods and services which are intended to benefit the City, shall not be a convicted vendor or included on the discriminatory vendor list. If the Proposer or any affiliate of the Proposer has been convicted of a public entity crime or has been placed on the discriminatory vendor list, a period longer than 36 months must have passed since that person was placed on the convicted vendor or discriminatory vendor list. The Proposer further understands and accepts that any contract issued as a result of this Request for Proposals shall be either voidable or subject to immediate termination by the City in the event there is any misrepresentation or lack of compliance with the mandates of Section 287.133 or Section 287.134, respectively, Florida Statutes. The City, in the event in such termination, shall not incur any liability to the Proposer for any goods, services or materials furnished.

### 6.5 LOBBYING

All Proposers, their agents and proposed sub-consultants or subcontractors, are hereby placed on notice that the Mayor, the City Council members, evaluation committee members, employees of the City or employees of any other project sponsoring agencies shall not be lobbied either individually or collectively regarding this Request for Proposals. Proposers, their agents and proposed sub-consultants or subcontractors are prohibited from contacting any of these individuals for any purpose relating to the Request for Proposals (e.g., general information, meetings of introduction, meals, etc.). Any Proposal submitted by a Proposer, its agents and potential subconsultants or subcontractors who violate these guidelines will not be considered for review. The



Purchasing Director (identified on the cover page of this Request for Proposals) shall be the only point of contact for questions and/or clarifications concerning the Request for Proposals, the selection process and the negotiation and award procedures.

#### **6.6 SUSPENSION OF CONTRACTORS FOR MATERIAL BREACH OF CITY CONTRACTS**

The City may temporarily or permanently suspend contractors from doing business with the City whenever a contractor materially breaches its contract with the City. Any Proposal submitted by a Proposer, its proposed subcontractors or subconsultants who are included on the City's Suspension List shall not be considered for review.

In addition, the principals of any Proposers or its proposed subcontractors or sub-consultants shall not attempt to do business with the City under a different name or form a new legal entity in order to do business with the City while the principals of the Proposer or its proposed subcontractors or sub consultants remain on the Suspension List. In the event there is any intentional misrepresentation, the Proposer further understands and accepts that any contract issued as a result of this Request for Proposals shall be subject to immediate termination for default and suspension procedures by the City. The City, in the event of such termination, shall not incur any liability to the Proposer for any goods, services or materials furnished.

#### **6.7 POINTS OF CONTACT/ TIMETABLE FOR INQUIRES**

Proposers shall contact the Purchasing Director, identified on the cover page of this Request for Proposals, for all inquiries related to this RFP. All Proposers' technical inquiries shall be confirmed in writing either through the mail, via facsimile transmission or electronic mail.

Technical questions will not be entertained beyond the cut-off date indicated on the cover page.

#### **6.8 ORAL REPRESENTATION**

No oral representation made by any City staff or official shall be binding on the City. The contents of this Request for Proposals and any subsequent addenda issued by the City shall govern all aspects of this Request for Proposals.

#### **6.9 ADDENDA**

If any revisions to the Request for Proposals become necessary (other than changes to the deadline for Proposal submission), the City will notify all registered Proposers requesting the corresponding

document at least three (3) calendar days before the date scheduled for opening the Proposals. The City may revise the deadline for Proposal submission at any time prior to the date and time scheduled for opening the Proposals. **It is the responsibility of all Proposers to ascertain whether any addenda have been issued before the Request for Proposals deadline by either calling or checking with the City's Purchasing Director.**

#### **6.10 CANCELLATION OF THE REQUEST FOR PROPOSALS**

The City reserves the right to cancel this Request for Proposals and/or re-advertise and re-solicit the requirements at any time when determined to be in the best interest of the City.

#### **6.11 DEVELOPMENT COSTS**

Neither the City nor its representatives shall be liable for any expenses incurred by any person in connection with the preparation, submission or presentation of a Proposal in response to this Request for Proposals. The Proposal and the information in the Proposal shall be provided at no cost to the City.

#### **6.12 TAX EXEMPT STATUS**

The City is exempt from Florida Sales and Federal Excise taxes on direct purchase of tangible property.

#### **6.13 PROPOSAL SUBMISSION AND OPENING**

All Proposals shall be submitted in sealed envelopes by the deadline indicated on the cover page of this Request for Proposals. The City assumes no responsibility for Proposals not properly labelled.

The City will not accept Proposals delivered after the established deadline. If the Proposal is delivered after the established deadline, a Proposer shall be deemed non-responsive to the Request for Proposals requirements.

Receipt of a Proposal by any City office, receptionist or personal other than the Clerk's Office will not constitute "delivery" as required by this Request for Proposals. The City will not accept or consider Proposals submitted via facsimile transmission. The public is welcome to attend the Proposal opening.

#### **6.14 ASSIGNMENT OF PROPOSALS**

A Proposer shall not transfer or assign its Proposal to a third party following submission of a Proposal to the City.

#### **6.15 WITHDRAWAL OF PROPOSAL**

A Proposer may withdraw their submitted Proposal by notifying the City in writing through an authorized representative at any time prior to the

opening/submittal deadline. Individuals making the withdrawal shall provide evidence of serving as an authorized representative of the Proposer. Proposals, once received, become the property of the City, and will not be returned to Proposers even when they are withdrawn from consideration.

Proposals, once opened, shall not be withdrawn or modified except to the extent agreed to by the City during subsequent contract negotiation.

#### **6.16 PUBLIC RECORDS AND EXEMPTIONS**

Upon receipt, Proposals become "public records" and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes. Proposers shall invoke the exemptions to disclosure provided by law, in the Proposal, by providing the specific statutory authority for the claimed exemption, identifying the data or other materials to be protected and stating the reasons why such exclusion from public disclosure is necessary.

#### **6.17 REJECTION OF PROPOSALS**

The City reserves the right to reject any and all Proposals for reasons including, but not limited to, the following: (1) when such rejection is in the interests of the City; (2) if such Proposal is deemed non-responsive; (3) if the Proposer is deemed non-responsive; or (4) if the Proposal contains any materials irregularities. Minor irregularities contained in a Proposal may be waived by the City. A minor irregularity is a variation from the Request for Proposals that does not affect the price of the contract nor does it give a Proposer an advantage or benefit not enjoyed by other Proposers and does not adversely impact the City.

#### **6.18 CONE OF SILENCE / CONFLICT OF INTEREST AND CODE OF ETHICS**

This Request for Proposals is issued pursuant to the City of Hialeah Code of Ordinances, which prohibits certain types of communications. After the advertisement of this Request for Proposals, all communications concerning this Solicitation should be directed to the City's Acting Director of the Purchasing Department. Potential Proposers and their agents and employees shall not contact the Mayor, any member of the City Council, or any member of the City staff, except the Acting Director of Purchasing, to discuss this Solicitation. Notwithstanding any other provision of this section, the imposition of a cone of silence on this Request for Proposals shall not preclude purchasing staff from obtaining industry comment or performing market research provided all communications related thereto

with a potential offeror, service provider, Proposer, lobbyist, or consultant are in writing or are made at a duly noticed public meeting.

This Section 6.18 does not apply to oral communications at Pre-Proposal conferences, oral presentations before Evaluation Committees, contract negotiations, and public presentations made to the City Council during any duly noticed public meeting. A copy of all written communications must be filed with the City Clerk.

#### **6.19 BUSINESS ENTITY REGISTRATION**

The City of Hialeah requires business entities to complete and file a registration application before doing business with the City. Proposers need not register with the City to present a Proposal; however, the selected Proposer(s) must register prior to award of a contract because the failure to register may result in the rejection of the Proposal. To register, contact the Purchasing Department at (305) 883-5865. It is the responsibility of the business entity to update and renew its application concerning any changes, such as new address, telephone number, etc. during the performance of any agreement obtained as a result of this Request for Proposals.

#### **6.20 SEALED PROPOSALS**

The original copies of the Proposal Forms, as well as any other pertinent documents, must be returned to the City in order for the Proposal to be considered for award. All Proposals are subject to the conditions specified herein and in the Special Conditions, Specifications and Proposal Forms.

The completed Proposal must be submitted in sealed envelopes clearly marked with the Proposal title to the Office of the City Clerk of the City of Hialeah, 3<sup>rd</sup> floor, 501 Palm Avenue, Hialeah, Florida 33010 before the time and date due.

#### **6.21 EXECUTION OF PROPOSAL**

The Proposal must contain a manual signature of an authorized representative in the space provided on the Proposal Form. Failure to properly sign the Proposal shall invalidate same and it shall NOT be considered for award. All Proposals must be completed in pen or be typewritten. No erasures are permitted. If a correction is necessary, draw a single line through the entered figure and enter the corrected figure above it. Corrections must be dated and initialed by the person signing the Proposal. Any illegible entries, pencil Proposals or corrections not initialed will not be tabulated. The original Proposal conditions and specifications CANNOT be changed or altered in any way after being submitted to the City.

## **6.22 PAYMENT**

The City of Hialeah complies with Florida Statue 218.70, Florida Prompt Payment Act. Prompt payment is made within forty-five (45) days of date on which proper invoicing is received for goods and services and thirty (30) business days for construction services.

## **6.23 LEGAL REQUIREMENTS**

Federal, State, County and City laws, ordinances, rules and regulations that in any manner affect the items covered herein apply. Lack of knowledge by the Proposer will in no way be a cause for relief from responsibility.

The individual executing this Proposal on behalf of the Company warrants to the City that the Company is a Florida corporation duly constituted and authorized to do business in the State of Florida, is in good standing and that Company possesses all of the required licenses and certificates of competency required by the State of Florida and the County of Miami-Dade to provide the goods or perform the services herein described.

## **6.24 PROPOSAL OPENING**

Proposals shall be opened and publicly read in the Council Chambers, 3<sup>rd</sup> floor, 501 Palm Avenue, Hialeah, Florida 33010 on the date and at the time specified on this Solicitation.

## **6.25 DISPUTES**

In case of any doubt or difference of opinion as to the services to be furnished hereunder, the decision of the City shall be final and binding on both parties. Any Proposal protest shall be handled pursuant to Section 2-815.1 of the City Code.

## **6.26 PATENTS & ROYALTIES**

The Proposer, without exception, shall indemnify and save harmless the City of Hialeah, Florida and its employees from liability of any nature or kind, including cost and expenses for, or on account of, any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the City. If the Proposer uses any design, device or materials covered by letters, patent, or copyright, it is mutually understood and agreed, without exception, that the Proposal prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in providing the required goods or services.

## **6.27 OSHA**

The Proposer warrants that the product and services supplied to the City shall conform in all respects to the standards set forth in the Occupational Safety and Health Act of 1970, as amended, and the failure to comply with this condition will be considered as a breach of contract. Any fines levied because of inadequacies to comply with these requirements shall be borne solely by the Proposer responsible for same.

## **6.28 SPECIAL CONDITIONS**

Any Special Conditions that vary from these General Conditions shall have precedence.

## **6.29 ANTI-DISCRIMINATION**

The Proposer certifies compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin.

## **6.30 INSURANCE/PERMIT**

Proposers are required to assume the full duty, obligation and expense of obtaining all necessary licenses, permits and insurance and assure all work complies with all Dade County and City of Hialeah building requirements and the South Florida Building Code. The Proposer shall be liable for any damages or loss to the City occasioned by negligence of the Proposer (or agent) or any person the Proposer has designated in the completion of the contract as a result of the Proposal.

## **6.31 BID BONDS, PERFORMANCE BONDS, CERTIFICATES OF INSURANCE**

Bid Bonds, when required, shall be submitted with the Proposal in the amount specified in Special Conditions. After acceptance of Proposal, the City will notify the successful Proposer to submit a performance bond and certificate of insurance in the amount specified in Special Conditions.

## **6.32 FACILITIES**

The City reserves the right to inspect the Proposer's facilities at any time without prior notice.

## **6.33 PROPOSAL TABULATIONS**

Proposers desiring a copy of the Proposal tabulation may request same by enclosing a self-addressed stamped envelope with the Proposal.

## **6.34 APPLICABLE LAW AND VENUE**

The law of the State of Florida shall govern this RFP and the contract between the City of Hialeah and the

successful Proposer. Any action concerning this RFP or the Agreement shall be brought exclusively in the state or federal courts in and for Miami-Dade County, Florida.

### **6.35 CLARIFICATION AND ADDENDA TO PROPOSAL SPECIFICATIONS**

If any person contemplating submitting a Proposal under this Request for Proposals is in doubt as to the true meaning of the specifications or other Proposal documents or any part thereof, the Proposer must submit a request for clarification to the City of Hialeah Purchasing Director. All such requests for clarification must be made in writing and the person submitting the request will be responsible for its timely delivery in compliance with the schedule in Section 2.3, above.

Any interpretation of the Proposal, if made, will be made only by Addendum duly issued by the City of Hialeah Purchasing Director. The City shall issue an Informational Addendum if clarification or minimal changes are required. The City shall issue a Formal Addendum if substantial changes which impact the technical submission of Proposals are required. A copy of such Addendum will be posted for all vendors. In the event of a conflict with the original Agreement, the Addendum shall govern all other Contract Documents to the extent specified. Subsequent addendum shall govern over prior addendum only to the extent specified.

### **6.36 AWARD OF CONTRACT**

- A. A contract may be awarded to the responsive, responsible Proposer whose Proposal, conforming to the Request for Proposals, is most advantageous to the City of Hialeah. The best responsive, responsible Proposer(s) will be determined in conjunction with the method of award which is described in the Special Conditions.
- B. The City shall award a contract to a Proposer only through action taken by the City Council.
- C. While the City may determine to award a contract to a Proposer(s) under this Request for Proposals, said Award may be conditional on the subsequent submission of other documents as specified in the Special Conditions. The Proposer shall be in default of any conditional award if any of these documents are not submitted in a timely manner and in the form required by the City. If the Proposer is in default, the City, through the Purchasing Director, will void its acceptance of the Proposer's offer and may determine to select the

second most responsive, responsible Proposer or re-solicit Proposals. The City may, at its sole option, seek monetary restitution from the defaulting Proposer as a result of damages or excess costs sustained and/or may prohibit the Proposer from submitting future Proposals for a period of one year.

- D. The City reserves the right to exercise the option to renew a term contract of any successful Proposer(s) to a subsequent optional period; provided that such option is stipulated in the contract ultimately Successful in regard to this Proposal.
- E. The City reserves the right to automatically extend any contract for a maximum period not to exceed ninety (90) calendar days in order to provide City departments with continual service and supplies while a new contract is being solicited, evaluated and/or Successful, provided this is expressly made a part of any contract Successful in regard to this Proposal.

### **6.37 ASSIGNMENT**

The Proposer shall not assign, transfer, convey, or otherwise dispose of any contract, including any or all of its right, title, or interest therein, or its power to execute such contract to any person, company or corporation without prior written consent of the City.

### **6.38 LAWS, PERMITS AND REGULATIONS**

The Proposer shall obtain and pay all licenses, permits and inspection fees as may be required by the Agreement and this RFP. The Proposer shall comply with all laws, ordinances, regulations, building code requirements applicable to the goods or services contemplated herein.

### **6.39 OPTIONAL CONTRACT USAGE**

Other State agencies, and/or Governmental Entities in the State of Florida may purchase from the resulting contract, provided the City, has certified its use to be cost effective and in the best interest of the City.

### **6.40 SPOT MARKET PURCHASES**

It is the intent of the City to purchase the goods or services specifically listed in this Proposal from the selected Proposer. However, items that are to be "Spot Market Purchased" may be purchased by other methods, i.e. Federal, State or local contracts.

### **6.41 INCENTIVES/DISINCENTIVES**

The City has EXCLUDED incentive/disincentive for early completion provisions in the contract. Liquidated damages may apply for untimely delivery of goods or services.

#### **6.42NON-COLLUSION**

By submitting this Proposal, Proposer certifies that this offer is made without prior understanding, agreement, or connection with any corporation, firm or person submitting an offer for the same materials, services, supplies, or equipment and is in all respects fair and without collusion or fraud.

No premiums, rebates or gratuities are permitted, either with, prior to or after any delivery of material or provision of services. Any violation of this provision may result in the Contract cancellation, return of materials or discontinuation of services and the possible removal from the vendor Proposal list(s).

#### **6.43FLORIDA PUBLIC RECORDS ACT**

All material submitted regarding this Proposal becomes the property of the City. Proposers should take special note of this as it relates to any

proprietary information that might be included in their offer.

Any resulting contract may be reviewed by any person after the contract has been executed by the City. The City has the right to use any or all information/material submitted in response to this Proposal and/or any resulting contract from same. Disqualification of a Proposer does not eliminate this right.

#### **6.44STANDARDIZED CHANGES**

Contract documents shall be modified, if necessary, to reflect the requirements of 23 CFR 635.109. The changed conditions contract clauses shall be made part of, and incorporated in this project which has been approved under 23 U.S.C. 106.

**END OF SECTION 6**

**SECTION 7.0**



**Agreement for Disaster Recovery**

**And Debris Removal Services**

**between**

**The City of Hialeah, Florida**

**and**

**ABC Corporation**

# **Agreement for Disaster Recovery And Debris Removal Services**

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## **AGREEMENT FOR DISASTER RECOVERY AND DEBRIS REMOVAL SERVICES**

This Agreement for Disaster Recovery and Debris Removal Services ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2016 ("Effective Date"), by and between the City of Hialeah, Florida ("City"), a municipal corporation of the State of Florida, and ABC Corporation ("Contractor"), a \_\_\_\_\_ corporation that is authorized to do business in the State of Florida.

### **RECITALS**

WHEREAS, the City issued a request for proposals ("RFP") for the collection, processing, and management of disaster debris; and

WHEREAS, the Contractor submitted a proposal in response to the City's RFP (RFP No. 2015-16-8500-36-002); and

WHEREAS, the City has relied upon the proposal and other information provided by the Contractor concerning the Contractor's experience and ability to provide disaster recovery and debris removal services to the City; and

WHEREAS, the City wishes to use and the Contractor wishes to provide the Contractor's services, subject to the terms and conditions contained in this Agreement; and

WHEREAS, the City Council finds that it is in the public interest and will protect the public health, safety, and welfare to enter into this Agreement with the Contractor, subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements contained herein, and the mutual benefits provided hereunder, the receipt and sufficiency of which are hereby acknowledged, the City and the Contractor agree that they shall be bound by and shall comply with the following provisions of this Agreement:

[Remainder of page intentionally blank.]

## SECTION 1: DEFINITIONS

The capitalized words and phrases in this Agreement are defined in this Section 1. The definitions contained in this Section 1 shall be used when interpreting this Agreement. In the event that a definition herein conflicts with a similar definition in a federal, state, or local law, the definition herein shall prevail when construing this Agreement.

- 1.1 "Administrator" means the Mayor or City employee designated by the Mayor to be responsible for the City's day-to-day administration of the Agreement.
- 1.2 "Agreement" means this Agreement for Disaster Recovery and Debris Removal Services, including all of the exhibits and amendments hereto.
- 1.3 "Applicable Law" means any local, state, or federal statute, law, constitution, charter, ordinance, judgment, order, decree, permit, rule, regulation, directive, policy, standard or similar binding authority, or a judicial or administrative interpretation of any of the same, which is now in effect or is enacted, adopted, promulgated, issued, or enforced by a Governmental Authority on or after the date when the City's RFP (No. 2015-16-8500-36-002) was issued, and relate in any manner to the performance of the City or the Proposer under this Agreement.
- 1.4 "Burnable Debris" means trees, vegetative matter, and other similar materials that are broken, destroyed or displaced by a declared disaster and may be burned in open piles or with an air curtain incinerator in compliance with all Applicable Laws. Burnable Debris includes the combustible portion of Construction and Demolition Debris, furniture, and other personal property.
- 1.5 "Chipping" means reducing wood or vegetative materials by mechanical means into small pieces to be used as mulch or fuel. Chipping and mulching may be used interchangeably in this RFP.
- 1.6 "City" means, depending on the context, either (a) the geographic area contained within the municipal boundaries of the City of Hialeah, Florida or (b) the government of the City, acting through the City Council or its designees.
- 1.7 "City Indemnified Parties" mean the City, including its officers, agents, volunteers, or employees while acting within the course and scope of their office or employment.
- 1.8 "Construction and Demolition Debris" or "C&D" means components of buildings and other structures that have been damaged by a Declared Disaster, including lumber and wood, gypsum wallboard, glass, metal, roofing material, tile, carpeting, floor coverings, window coverings, pipe, concrete, asphalt, fixtures, and furnishings.
- 1.9 "Contractor" means ABC Corporation, which shall also be referred to interchangeably as the "Debris Management Contractor" or "DMC".
- 1.10 "Council" means the City Council of the City of Hialeah, Florida.

- 1.11 "Debris" means items and materials that are broken, destroyed, or displaced by a Declared Disaster, including Vegetative Debris, Mixed Debris, Construction and Demolition Debris, Hazardous Waste, Household Hazardous Waste, Putrescent Debris, and White Goods.
- 1.12 "Debris Clearance" means clearing the public Rights-of-Way by pushing Debris to the side of the road to accommodate emergency traffic.
- 1.13 "Debris Disposal" means placing Mixed Debris and/or residue from volume reduction operations into a fully permitted, City approved, landfill or Designated Recycling Center.
- 1.14 "Debris Monitor" means a qualified City employee or firm retained by the City to monitor the DMC's activities under this Agreement and to ensure the DMC's compliance with FEMA requirements and Applicable Law.
- 1.15 "Debris Removal" means picking up Debris and taking it to a Temporary Debris Staging and Reduction Site or a fully permitted, City approved landfill or Designated Recycling Center.
- 1.16 "Declared Disaster" means a hurricane, storm, or other natural or manmade disaster in the City of Hialeah, as declared by the City, the State of Florida, or the federal government.
- 1.17 "Designated Recycling Facility" means the facility designated by the City where the DMC shall deliver Recyclable Materials for the City. The Designated Recycling Facility may be a materials recovery facility (MRF), recovered materials processing facility (RMPF), or transfer station.
- 1.18 "Effective Date" means the date when this Agreement becomes effective and binding upon the Parties. The Effective Date shall be the date when this Agreement is duly executed by the Mayor, which shall occur after this Agreement is executed by the Contractor.
- 1.19 "Eligible" means qualifying for and complying with the current requirements established by FEMA and Applicable Laws for reimbursement, determined as of the time when the DMC is conducting its work under the Agreement.
- 1.20 "Eligible Debris" means Debris resulting from a Declared Disaster whose removal, as determined by the Administrator or his/her designee, is in the public interest because it is necessary to: (1) eliminate an immediate threat to life, public health and safety; (2) eliminate an immediate threat of significant damage to improved public or private property; or (3) ensure economic recovery; all as determined in compliance with current FEMA regulations, policies and guidelines, and other Applicable Laws.
- 1.21 "FEMA" means the Federal Emergency Management Agency.

- 1.22 "FDEP" means the Florida Department of Environmental Protection.
- 1.23 "FDOT" means the Federal Department of Transportation.
- 1.24 "FFWC" means the Florida Fish and Wildlife Conservation Commission.
- 1.25 "FHWA" means the Federal Highway Administration.
- 1.26 "Governmental Authority" means any federal, state, or local agency, department, court, or other administrative, legislative, or regulatory entity having jurisdiction over any aspect of the City's or the Contractor's activities under this Agreement.
- 1.27 "Hazardous Stump" means an uprooted tree or Stump (i.e., 50% or more of the root ball is exposed) on a public Right-of-Way, improved public property, or improved property owned by certain private nonprofit organizations, and the exposed root ball poses an immediate threat to life, or the health and safety of the community.
- 1.28 "Hazardous Waste" or "HW" means a waste that appears on one of the hazardous waste lists in Title 40 of the Code of Federal Regulations (CFR), Part 261, or is regulated by FDEP as Hazardous Waste.
- 1.29 "Household Hazardous Waste" or "HHW" means a consumer product or material that contains HW and is disposed of by a City resident. HHW includes paints, stains, varnishes, solvents, pesticides, antifreeze, gasoline, oils, swimming pool chemicals, and other products or materials containing volatile chemicals that are ignitable, reactive, toxic, or corrosive, as determined under the federal Resource Conservation and Recovery Act (RCRA), as amended, and its implementing regulations. HHW does not include materials that contain Hazardous Waste and are discarded by a commercial or industrial business.
- 1.30 "Indemnified Loss" means all actual costs, losses, damages, expenses, and liabilities that a City Indemnified Party incurs or suffers pursuant to or in connection with, or are caused by or result from, directly or indirectly, IN WHOLE OR IN PART, any wrongful act, error or omission, or negligence by the Contractor or any of its agents, employees, or any tier of subcontractors of the Contractor, or subcontractor to a subcontractor of the Contractor, or anyone employed by any of those Persons for whose wrongful act, error or omission, or negligence any of them may be liable in the execution or performance of the Contractor's obligations under or incidental to this Agreement, except to the extent resulting solely from the negligent acts or omissions of the City Indemnified Party. Such costs include attorneys' fees, court costs, and expert witness fees in all trial, appellate, mediation, and bankruptcy proceedings. An Indemnified Loss includes (a) any bodily injury, property damage, sickness, disease, or death; (b) any claim arising under or from any actual or alleged violation of any Applicable Law (including workers' compensation laws, environmental laws, and health and safety laws) or any common law duty; (c) any actual or alleged infringement of any intellectual rights or property of any Person; (d) any actual or alleged pollution

of or damage or destruction to property, natural resources, or the environment; (e) any lawsuit resulting from or related to the designation by the Contractor of any document or material as exempt from public disclosure or public records laws; (f) any lawsuit resulting from or related to the City's decision to award this Agreement to the Contractor; and (h) defending, settling, prosecuting, investigating, or participating in (as a witness or otherwise) any proceeding that arises out of or pertains to any of the foregoing; in each case, to the extent permitted by law or not otherwise prohibited, without regard to or limitation by the amount or type of benefits, damages, or compensation payable by or for the Contractor, any subcontractor of the Contractor, or any subcontractor to a subcontractor of the Contractor under any insurance policy or any Applicable Law (including employee benefits, disability benefits, and workers' compensation laws).

- 1.31 "Load Ticket" means a numbered voucher that records: the DMC's vendor information; the size of the load (measured in cubic yards); the date and time when the load is delivered; and the County-issued number for the vehicle that delivers the load.
- 1.32 "Mixed Debris" means a mixture of various types of Debris, which may include C&D Debris, White Goods, Household Hazardous Waste, metals, and tires.
- 1.33 "NRCS" means Natural Resources Conservation Service.
- 1.34 "Non-Burnable Debris" means items and materials that cannot lawfully be burned in open piles or air curtain incinerators. Non-Burnable Debris includes treated wood, plastic, glass, rubber products, metal products, sheet rock (wallboard), clothes, non-wood building materials, and carpeting.
- 1.35 "Notice to Proceed" means the written notice given by the Administrator to the DMC, specifying the time, date and location (if applicable) for the commencement of the Contractor's work under this Agreement.
- 1.36 "OEM" means the City of Hialeah's Office of Emergency Management.
- 1.37 "Parties" means the City and the Contractor.
- 1.38 "Party" means, depending on the context, either the City or the Contractor.
- 1.39 "Performance Bond" means the financial security furnished by the Contractor as a guarantee that the Contractor will perform its work and pay all lawful claims in accordance with the terms of this Agreement.
- 1.40 "Person" means any and all persons, natural or artificial, including any individual, firm, association, joint venture, partnership, or other entity, however organized; any municipal or private corporation organized or existing under the laws of the State of Florida or any other state; any county or municipality; and any governmental agency of any state or the federal government.

- 1.41 "Project Manager" means the DMC's representative that is authorized to make and execute decisions on behalf of DMC.
- 1.42 "Putrescent Debris" means food waste, animal carcasses, and other similar types of fleshy organic Debris that will decompose or rot.
- 1.43 "Rates" means the fees and charges approved by the City for the Contractor's services under this Agreement.
- 1.44 "Recyclable Materials" means materials that: (a) are capable of being recycled and which would otherwise be processed or disposed of as Debris; (b) have been collected by the DMC on behalf of the City; and (c) are under the City's control. Recyclable Materials include paper, cardboard, aluminum cans, plastic containers, metals, and C&D materials that have monetary value.
- 1.45 "RFP" means the request for proposals (RFP No. 2015-16-8500-36-002) issued by the City for disaster recovery and debris removal services.
- 1.46 "Right-of-Way" means the land over which a road, highway, railroad, electrical transmission line, or similar linear facility is built. A Right-of-Way includes the land on both sides of the highway or other linear facility, up to the property line.
- 1.47 "Stumps" means tree stumps.
- 1.48 "Temporary Debris Staging and Reduction Site" or "TDSRS" means a location approved by the Administrator where Debris is temporarily stored, reduced, segregated, and/or processed prior to final disposal at a permanent landfill, Designated Recycling Facility, or other site approved by the City.
- 1.49 "Vegetative Debris" means clean, woody Debris and other vegetative materials that can be chipped and mulched. Vegetative Debris includes whole trees, Stumps, trunks, branches, limbs and other leafy material.
- 1.50 "Vehicles and Vessels" means vehicles and vessels that: (a) have been damaged, destroyed, displaced or lost as a result of a Declared Disaster; (b) are blocking ingress or egress in a public use area or critical facility; and (c) present a hazard or immediate threat to the public.
- 1.51 "White Goods" means large household appliances, including refrigerators, freezers, stoves, washers, dryers, air conditioners, heat pumps, ovens, and water heaters.

## **SECTION 2: TERM OF THIS AGREEMENT**

This Agreement shall take effect and be binding upon the Parties from the Effective Date until the date when this Agreement is terminated or expires. The initial term of this Agreement shall expire three (3) years after it is duly executed by the Mayor, unless this Agreement is terminated earlier. The Council shall have the right to renew and extend this Agreement, at the end of the initial term of this Agreement and at the end of each renewal term (if any), unless the Contractor gives written notice to the City that the Contractor is not willing to renew this Agreement and such notice is delivered at least two hundred seventy (270) days before the end of the then current term of the Agreement. Each renewal term shall be one year in duration, unless the City and the Contractor mutually agree to a longer term, but the cumulative duration of all renewal terms shall not exceed two (2) years. During each renewal term, the City and the Contractor shall be subject to the conditions and limitations that are contained herein, unless the City and the Contractor agree otherwise.

## **SECTION 3: CONTRACTOR'S SCOPE OF WORK AND OBLIGATIONS**

### **3.1 OVERVIEW**

The Contractor shall provide its services under this Agreement if and when the City needs assistance with disaster recovery and Debris removal services. The Contractor shall not be required to provide its services to the City until the City issues a Notice to Proceed. Upon the issuance of a Notice to Proceed, the Contractor promptly shall provide the Administrator with the Certificate of Insurance and Performance Bond required herein. After the City receives and approves the Contractor's Certificate of Insurance and Performance Bond, the Contractor shall provide all labor, supervision, materials, equipment, facilities, power, communications, and other services and supplies necessary for, or incidental to, the performance of the Contractor's work under this Agreement. All services provided by DMC, and all labor, materials and equipment used by the Contractor and its subcontractors, must comply fully with all Applicable Law, including the requirements established by FEMA. All of the Contractor's duties and obligations shall be performed at the Contractor's expense, in exchange for the City's payment of the Rates identified in Exhibits 1, 2, and 3, which are attached to this Agreement. However, the City does not warrant or guarantee that the Contractor will be assigned to any specific zone in the City for any cleanup and the City does not guarantee any specific amount of Debris will be available for collection or disposal by the Contractor. The City reserves its right to award the City's work to multiple vendors, based on the City's needs.

### **3.2 SPECIFIC SCOPE OF WORK**

The DMC shall provide all labor, supervision, materials, equipment, facilities, power, communications, and other services and supplies necessary for, or incidental to, the performance of the Debris removal and disposal services described in this Agreement. DMC must conduct its work in a manner that does not interfere with disaster response and recovery activities of federal, state, and county governments and agencies or public utilities. The City may use other contractors to work in other zones within the City and, therefore, the Contractor must coordinate with any such Person. Services required from DMC may include the following:



- 3.2.1 Emergency Push/Road Clearance: Immediately following a Declared Disaster, it may be necessary for DMC to cut, toss, and/or push Debris from public transportation routes as identified and directed by the City. Payment for these services will be on an hourly basis for manpower and equipment as listed on Exhibits 1, 2, and 3, respectively. This hourly work will only be conducted for the first seventy (70) hours, unless otherwise agreed in writing by the City.
- 3.2.2 Debris Removal from Public Rights-of-Way (ROW): As identified and directed by the City, DMC shall provide all labor, services, supervision, equipment, materials and supplies necessary to collect Vegetative Debris, Mixed Debris, Non-Burnable Debris and C&D Debris from the City's Rights-of-Way and public property. DMC shall provide Debris collection in an efficient and systematic manner. DMC shall haul all Debris to designated TDSRS, disposal sites, or Designated Recycling Facilities, as determined by the Administrator. DMC shall segregate all Debris, to the extent practical. Vegetative Debris and other natural materials that can be chipped, mulched, burned and disposed of in a similar manner shall be handled separately from Mixed Debris.
- 3.2.3 Vegetative Debris Removal:
- (a) Stump Removal, Backfill and Haul: DMC shall remove Stumps that have 50% or more of the root-ball exposed and then DMC shall fill the root-ball hole. If grinding the Stump in place is less costly than removal or extraction, then DMC shall grind the Stump in place. The City shall pay costs charged on a per-Stump basis only if the Stump is 2 feet or larger in diameter (measured 2 feet above the ground) and extraction is required as part of the removal. For Stumps that have less than 50% of the root-ball exposed, DMC shall flush cut the item at ground level and dispose of the cut portion based on volume or weight. For Stumps that are smaller than 2 feet in diameter, and for Stumps of any size that do not require extraction, DMC shall charge based on volume or weight. In the event that DMC charges on a per Stump basis, payment shall be made based on a unit price for Debris volume, calculated using the Stump Conversion Table included in current FEMA regulations, guidelines and policies. As identified and directed by the City, DMC shall remove Hazardous Stumps or trees individually, and shall haul each Stump or tree to a designated site, and shall backfill. DMC shall utilize the Hazardous Stump Worksheet included in current FEMA regulations, guidelines and policies, and shall present documentation to substantiate the costs incurred. Each Stump shall be inspected by the City and DMC and documented as to the appropriate size and payment category. All Stumps that are in the public Rights-of-Way, but not in the ground, shall be picked up, transported to a designated site, and included in the overall cubic yard price for Debris removal. Payment for Stumps shall be based on the prices set forth in Exhibit 1 (Cost Proposal and Price Schedule Form), and such prices include extraction, transport, disposal, and filling the root-ball hole. DMC shall provide the City with

documentation to support the removal of tree limbs, branches, Stumps or trees that are still in place, which shall include specifics of the immediate threat with the U.S. National Grid (USNG) location, and a photograph or video that establishes the item is on public property, the diameter of each item removed (measurement must be 2 feet up the trunk from the ground for Stumps and 4.5 feet up for trees), the quantity of material used to fill the root-ball holes, and the equipment used to perform the work. DMC shall not remove Stumps from private property, unless it complies with the requirements of Section 3.2.10 of this Agreement.

- (b) Leaning Trees and Hanging Limbs: DMC shall trim, cut and/or fell leaning trees (leaners) and/or hanging limbs (hangers) that are 2 inches or larger in diameter (measured at the point of break) that pose an immediate threat to the public, such as broken limbs or branches that may be hanging over improved property or public-use areas, including trails, sidewalks, or playgrounds, if they could fall and cause injury to improved property or the public. Only the minimum cut necessary to remove the hazard is allowed. DMC shall not remove broken limbs or branches located on private property unless: (1) the limbs or branches extend over the public ROW; (2) the limbs or branches pose an immediate threat to the safety of the community; (3) DMC removes the hazard from the public ROW without entering private property; and (4) DMC obtains the prior written consent of the Administrator. In the event that DMC complies with conditions (1) through (4) above, DMC shall only trim and/or cut the limbs or branches that extend into the public Right-of-Way from private property at the point where they enter the Right-of-Way, and that part of the Debris which lies within the Right-of-Way shall be removed. Each tree and limb shall be placed in the public Right-of-Way, where such Debris shall be removed and included in the overall cubic yard total for Debris removal.
- (c) Tree Removal: DMC shall remove an incident-damaged tree if the tree has a diameter of 6 inches or greater (measured 4.5 feet above ground level), a split trunk, a broken canopy, or is leaning at an angle greater than 30 degrees. If the tree has 50% or more of the root-ball exposed, DMC shall remove the tree and the root-ball, and shall fill the root-ball hole appropriately. Removal of a tree and root-ball pursuant to this Section 3.2.3(c) shall be charged as a one-time charge per tree. For trees that have less than 50% of the root-ball exposed, DMC shall flush cut the tree at ground level and dispose of the cut portion based on volume or weight. DMC shall not grind any residual Stump after cutting the tree, unless the grinding previously was approved by the City in writing. DMC shall not remove incident-damaged trees from private property, unless it complies with the requirements of Section 3.2.10 of this Agreement.

- 3.2.4 Construction and Demolition Debris (C&D): Upon request by the City, DMC shall remove C&D that presents an immediate threat to the safety, welfare, and well-being of the community, or obstructs a public Right-of-Way or other recovery efforts, and is generated by a Declared Disaster.
- 3.2.5 Hazardous Waste (HW): DMC shall: (1) separate or segregate HW from other Debris; (2) utilize specialized procedures for handling and disposing of HW in compliance with all FEMA requirements and other Applicable Law; (3) control and stabilize the HW; (4) pump and treat water that is contaminated with the HW; and (4) clean-up and dispose of the HW. DMC shall document in detail the collection, segregation, transportation, processing and disposal of HW. DMC shall monitor carefully the collection, segregation, transportation, processing and disposal of HW to verify and ensure that proper precautions are taken and established policies and procedures have been followed, including notification of appropriate authorities in case of an accident or if unsafe practices are observed. When applicable, before handling or disposing of HW, DMC shall contact the appropriate federal, state and local agencies and obtain the required permits to do so. DMC must obtain and maintain the required certification for the collection, segregation, transportation, processing and disposal of HW, if DMC manages any such material. Appropriate certified specialists must collect, process or dispose of HW.

(a) Petroleum, Oil, Lubricant Spills

- i. DMC shall be responsible for reporting to the City and cleaning up all petroleum, oil, lubricant, and similar spills caused by DMC operations, at no additional cost to the City. Immediate containment actions shall be taken as necessary to minimize the effect of any spill or leak. Cleanup shall be in accordance with Applicable Law.
- ii. Spills shall be reported to the National Response Center and the City immediately following discovery. A written follow-up shall be submitted to the City not later than seven (7) days after the initial report. The written report shall be in a narrative form and, at a minimum, shall include the following:
  1. Description of the material spilled (including type, quantity, etc.).
  2. Determination as to whether the amount spilled is EPA/FDEP reportable and, if so, when and to whom the spill was reported.
  3. Exact time and location of spill, including description of the area involved.
  4. Receiving stream or waters, if any.

5. Cause of the incident, and identification of the equipment and personnel involved.
6. Description of the injuries or property damage, if any.
7. Duration of discharge.
8. Containment procedures implemented.
9. Summary of all communications the Contractor has had with the media or other officials.
10. Description of cleanup procedures employed or to be employed at the site, including the disposal location for spill residue.
11. Current status of the spill and cleanup.

3.2.6 Household Hazardous Waste Materials (HHW): HHW will not be removed from Rights-of-Way under this contract. Residents will be provided the locations of the drop-off points for the disposal of their Household Hazardous Waste, such as the Miami-Dade County Residential Chemical Center.

3.2.7 Vehicle and Vessels: After obtaining prior written authorization from the City, DMC shall collect, remove, transport, and dispose of Vehicles and Vessels. DMC shall verify and document: (1) each Vehicle and Vessel identification number; (2) each Vehicle or Vessel is processed appropriately, including the removal of all HW and fluids before destruction; (3) each Vehicle and Vessel is transported to a secure and appropriate location for disposal; and (4) any and all separation and salvage activities. DMC shall remove Vehicles and Vessels only if the Vehicle or Vessel blocks access to a public use area or the Vehicle or Vessel is abandoned and DMC is unable to identify the owner. In such cases, DMC must follow all applicable FEMA requirements and Applicable Law for private Vehicle or Vessel removal, and DMC must verify the chain of custody for the Vehicle and Vessel.

3.2.8 Putrescent Debris: After obtaining prior written authorization from the City, DMC shall collect, remove, transport and dispose of Putrescent Debris and document the process used.

3.2.9 Debris Removal from Waterways and Drainage System: After receiving prior written approval from the City, DMC shall remove storm-generated Debris from waterways and drainage systems, including drainage canals, retention areas, creeks, and ditches, if such action is necessary to eliminate an immediate threat to life, public health and safety, as directed by the City.

3.2.10 Debris Removal from Private Property: DMC shall not remove Debris from private property unless (1) the Debris poses an imminent threat to life, safety, economic recovery and the health of the general public, and (2) the DMC receives the City's prior written approval.

- (a) Debris Removal from Gated Communities: DMC shall not remove Debris from a private residential property within a gated community. If the Debris is placed on a private road within the gated community, DMC may remove the Debris from the road if (1) the Debris poses an imminent threat to life, safety, economic recovery, and the health of the general public, and (2) DMC receives the City's prior written approval.
- (b) Debris Removal from Commercial Properties: DMC shall not remove Debris from commercial properties, such as industrial parks, golf courses, cemeteries, apartments, condominiums, and trailer parks, unless (1) the Debris poses an imminent threat to life, safety, economic recovery, and the health of the general public, and (2) DMC receives the City's prior written approval.

3.2.11 Additional Services: DMC may be requested to perform the services described below:

- (a) White Goods: After obtaining prior written authorization from the City, DMC shall remove and recover freon from any White Goods, such as refrigerators, freezers or air conditioners, in accordance with Applicable Law. DMC shall recycle all Eligible White Goods in accordance with Applicable Law. White Goods may be transported to a storage area before decontamination, as long as freon is not released during the removal, hauling or recycling. DMC shall document and verify the collection, segregation, transportation, disposal, and salvage activities for the reporting and reimbursement process.
- (b) Emergency Potable Water: Upon receiving the City's written request, DMC shall provide the City with whole pallets of individual bottles of drinking water. The City will instruct DMC as to the number of pallets needed, the location(s) for delivery, and the schedule for delivery. Multiple deliveries may be necessary.
- (c) Emergency Ice: Upon receiving the City's written request, DMC shall provide the City with whole pallets of cubed ice made from potable water and packaged in individual bags between five (5) and ten (10) pounds. The City will instruct DMC as to the number of pallets needed, the location(s) for delivery, and the schedule for delivery. Multiple deliveries may be necessary. The delivery vehicle may be required to conduct ice deliveries for several days.

- (d) Other Services as Requested: DMC shall also provide other related services, as requested by the City.

- 3.2.12 Securing Debris During Hauling: DMC shall secure Debris on/in each vehicle or piece of equipment utilized to haul Debris. Prior to leaving the loading sites, DMC shall ensure that each load is secure and trimmed so that no Debris extends horizontally in any direction beyond the bed of the vehicle or equipment. All loose Debris shall be reasonably compacted and secured during transport in accordance with FDOT guidelines. As required, DMC must survey the primary routes used by DMC for Debris hauling as soon as possible after the transport and DMC must pick up and remove all Debris that has fallen or blown from DMC's vehicles or equipment on to the roadways or Rights-of-Way.
- 3.2.13 Multiple Schedule Pass: DMC shall make as many passes as necessary, unless otherwise directed by the Administrator, to collect all Debris within the Rights-of-Way from both sides of the roadway. DMC shall not move from one designated work area to another designated work area without prior written approval from the Administrator.
- 3.2.14 Damage by DMC: DMC shall restore and/or repair, at DMC's expense, all damaged infrastructure (e.g., curbs, sidewalks, water meters, utility lines, etc.) if the damage is caused by DMC's activities. DMC is responsible for the preservation of all public and private property, including turf, landscaping, sidewalks, curbs, fences, driveways, and sprinkler heads and valves. If any direct or indirect damage occurs to public or private property on account of any act, omission, neglect or misconduct in the execution of the work on the part of DMC, such property shall be restored by DMC at its expense to a condition similar or equal to that existing before such damage or injury. DMC shall respond to all complaints within twenty-four (24) hours and shall repair any damage within the timeframe established by the City, at DMC's sole cost and expense. In the event DMC fails to respond in a timely manner, the City may perform damage repairs as necessary and, in such cases, all costs for labor, equipment, and supplies shall be deducted from DMC's invoice. DMC's failure to respond promptly, as required herein, may be considered cause for termination of the Agreement.

DMC shall be responsible for paying any and all costs associated with violations of Applicable Law related to DMC's activities. Such costs may include: site cleanups and/or remediation; fines; administrative or civil penalties; and third party claims against the City by any regulatory agency or other Person as a result of noncompliance with Applicable Laws, environmental laws, or nuisance standards by Contractor, its subcontractors, or any other Person retained by the DMC under this Agreement.

- 3.2.15 On-site Chipping: In areas not accessible by Debris removal equipment and as directed by the Administrator, DMC will chip limbs, branches, foliage, etc., on-site using a hand-fed chipper. DMC shall collect chipped and other tree Debris immediately following completion of the chipping and shall haul the mulch or

chipped Debris to a final disposal site, as determined by the Administrator. DMC shall provide chipping equipment and crews to conduct on-street chipping of Vegetative Debris in areas inaccessible to DMC's normal Debris clearing equipment. Locations of on-street chipping operations will be identified by the City. The on-street chipping crews will consist of a combination of equipment and personnel. On-street areas must be restored to a condition similar or equal to that existing before the disaster. Restoration procedures may include raking of loose Debris.

3.2.16 Accumulation of Debris: No Debris shall be allowed to accumulate or be stored on public or private property at any time without the proper authorization from the Administrator. Under no circumstances shall the accumulation of brush, limbs, cut trunks, logs, or other Debris be allowed on a public Right-of-Way in such a manner as to result in a hazard to the public.

3.2.17 Monitoring DMC's Operations: The Debris Monitor shall observe, monitor, and document the DMC's Debris removal operations, including Debris types, quantities, reduction methods, and pick up and disposal locations, to ensure that DMC complies with all Applicable Law, including FEMA regulations, policies and guidelines. Monitoring DMC's contracted removal operations includes field supervisory oversight, monitoring of Debris removal at the loading, staging and final disposal sites, monitoring Debris removal, segregation, processing and final disposal, and compiling documentation (e.g., Load Tickets and monitor reports) to verify DMC's contracted Debris removal operations.

3.2.18 Notice to Proceed and Mobilization: DMC shall begin preparation for mobilization twenty-four (24) hours before a predicted storm landfall or as determined by the City. DMC shall be fully operational within twenty-four (24) hours after receiving a Notice to Proceed from the City. The City's Notice to Proceed will identify specific work areas assigned to DMC and will include maps, boundaries, and locations of the work that DMC needs to perform.

### 3.3 TEMPORARY DEBRIS STAGING AND REDUCTION SITES (TDSRS)

3.3.1 DMC shall be responsible for establishing and operating an adequate number of TDSRS where DMC intends to separate, reduce and process the Debris that may be generated in the City after a Declared Disaster. The TDSRS locations owned or leased by the DMC must be properly and fully permitted. The City reserves the right to establish its own TDSRS locations, which shall be for the exclusive use of the City. DMC shall assist the City with the identification, purchase or lease of these locations, as well as the permitting process, and shall assist with the appropriate environmental investigations to make the TDSRS operational.

3.3.2 DMC shall have sufficient TDSRSs fully operational and ready to open and receive the City's Debris within twenty-four (24) hours after receiving the City's Notice to Proceed. Each TDSRS will be activated on an "as needed" basis.

- 3.3.3 DMC will be responsible for preparing and maintaining each TDSRS to accept Debris, including: any site work and materials necessary to build and maintain stabilized roads for ingress or egress or any roads on the site; construction of inspection towers as directed by the City; any environmental requirements, such as fences for the control of wind-born Debris; construction of an area for an office trailer and parking; and any other item necessary for efficient site operation and management.
- 3.3.4 At all times, DMC shall be responsible for maintaining the City's Debris separate and apart from any Debris generated by other cities, agencies, or organizations contracted with DMC at the TDSRS. Comingling the City's Debris with the Debris of any other Person is prohibited. DMC shall not be paid by the City for the removal, processing, or disposition of comingled Debris. In the event that the City pays DMC for the removal, processing, or disposition of what is later determined by FEMA to be comingled Debris affecting the City's eligibility for reimbursement, DMC shall reimburse the City any and all amounts paid to DMC for removal, processing, or disposition said Debris.
- 3.3.5 DMC shall be responsible for installing all measures needed to ensure the site's security.
- 3.3.6 DMC shall segregate all Debris prior to processing or disposal. Subject to City approval, DMC shall segregate Debris, so as to maximize recovery and recycling efforts, between Vegetative Debris, C&D Debris, White Goods, electronic waste (e.g., computers; televisions; stereos; printers; etc.), Hazardous Waste, and Mixed Debris.
- 3.3.7 DMC shall ensure that every load entering and leaving the TDSRS is inspected by the Debris Monitor and that proper documentation is completed for such load, including a Load Ticket to verify and document the contents and quantity (cubic yards) of the load.
- 3.3.8 DMC shall be responsible for complying with all Applicable Law concerning the proper handling, storage, and disposal of any HW brought to the TDSRS. DMC shall prepare and maintain an area at each TDSRS to accommodate HW. The area shall be lined with impervious material and surrounded with containment structures sufficient to contain any potential leakage from the HW.
- 3.3.9 DMC shall be responsible for processing, transporting, and disposing of all Debris in accordance with Applicable Law. The City shall direct the flow of all waste materials and must approve all disposal sites prior to their use.
- 3.3.10 If requested by the City, DMC shall restore each City owned or leased TDSRS to its pre-use condition within thirty (30) calendar days after receiving the last load of Debris. Closure shall include: the removal of all equipment and Debris; grading the site to pre-event conditions; seeding and mulching of exposed areas; repairing irrigation systems, fences and roads; and removing all remnants of the processing



operations, such as temporary offices, towers, security fences, etc. The site shall be restored in accordance with all Applicable Law and the requirements herein.

### 3.4 DOCUMENT MANAGEMENT AND SUPPORT

DMC shall provide data management and support to the City during the emergency recovery effort, including the following:

3.4.1 DMC shall utilize Load Tickets to track and document the removal and management of Eligible Debris. DMC shall ensure that all Load Tickets comply with the requirements of FEMA and other federal, state, and local reimbursement agencies.

3.4.2 Each Load Ticket shall contain the following information:

- (a) Contractor's name
- (b) City's identification or contract number for the Contractor
- (c) Load Ticket number
- (d) Date and time of pick up
- (e) Date and time of delivery
- (f) Pick up location (by street address or block)
- (g) Total cubic yards picked up
- (h) Debris classification
- (i) Truck ID number and capacity
- (j) If applicable, operator/employee name
- (i) Hours worked
- (k) If applicable, equipment used
- (l) Hours used
- (m) Delivery Site
- (n) Signature of the City's designated representative
- (o) Signature of the Contractor's designated representative

3.4.3 Load Tickets will be issued by the Debris Monitor prior to departure from the loading site or upon arrival at the TDSRS. The Debris Monitor shall keep one (1) copy of the Load Ticket and the vehicle operator will retain the remaining copies for DMC's records. DMC must scan all Load Tickets. DMC shall provide scanned copies of all Load Tickets to the City, as well as a spreadsheet itemizing all Load Tickets, once every thirty (30) days or more frequently if requested by the Administrator.

3.4.4 DMC shall supply certification placards that comply with FEMA requirements and DMC shall place such placards on its vehicles. Placards shall include the City of Hialeah's seal, the wording "Debris Management Contractor" and the DMC's name.

3.4.5 DMC shall have an organized, up to date system for clearly tracking, documenting, maintaining, and retrieving all of its costs associated with the work conducted

pursuant to this Agreement; identifying expenditures Eligible for reimbursement; and maintaining documents concerning the recovery process.

3.4.6 DMC will work closely with the City and applicable federal, state and local agencies to ensure that the City's emergency recovery procedures and data documentation for Eligible Debris comply with all of the requirements of FEMA and the other reimbursement agencies. DMC shall provide to the City all of the records, disposal tickets, field inspection reports, and other data necessary to adequately document the recovery services and provide sufficient substantiation for federal and state reimbursement applications. DMC shall provide hard copies and electronic scanned documents with an itemized spreadsheet. DMC shall assist the City in preparing all federal and state reports and applications for reimbursement, including training agencies and department employees. DMC shall review all reimbursement applications prepared by the City prior to submittal to ensure their sufficiency in meeting the reimbursement requirement of these organizations and DMC shall promptly notify the City of any recommended changes, corrections, alterations or deletions in such applications. DMC shall assist, as directed by the City, in responding to federal and state agency requests for additional information and in negotiations with federal and state officials. DMC shall retain all documentation and records during the term of the Agreement and for a minimum of eight (8) years after the expiration or termination of this Agreement.

3.4.7 DMC shall reconcile any discrepancies between the Debris Monitor's daily report and the corresponding Load Tickets within forty-eight (48) hours.

### 3.5 STAFF AND EQUIPMENT REQUIREMENTS

3.5.1 Staff, Personnel and Subcontractors: Under this Agreement, DMC shall provide professional staff that have the knowledge, skills, and training to manage the disaster recovery process efficiently and effectively. Extensive knowledge of FEMA, FHWA, NRCS, FDOT, FDEP, FFWC and other applicable federal, state and local agency regulations and policies is required.

DMC shall ensure that its work force, including subcontractors, maintains self-sufficiency related to fuel, vehicle repair/maintenance, housing, sanitation, food, and related accommodations in a manner that is consistent with local requirements and minimizes adverse effects on the community. Overnight camping by employees must be approved in advance by the Administrator. Prior to performing any services for the City, DMC shall submit the resumes of the proposed Project Manager and key professional personnel that will be performing services for the City pursuant to this Agreement.

3.5.2 Equipment, Vehicles and Manpower:

- (a) DMC shall submit to the City a typed list that indicates the type of vehicle, make, model, license plate number, driver's name, equipment identification number, and measured interior volume (in cubic yards) of the load bed of each piece of equipment to be utilized to haul Debris.

DMC and the City shall jointly measure the load volume of each piece of equipment, calculated from actual interior bed measurements. Maximum volumes may be rounded to the nearest cubic yard. For example:  $<18.5 \text{ CY} = 18\text{CY}$  and  $> 18.5 \text{ CY} = 19 \text{ CY}$ . The measured maximum volume of any load bed shall be the same as shown on the signs fixed to each piece of equipment for the duration of the disaster work.

- (b) Prior to commencing operations, DMC shall affix to each piece of equipment signs or markings indicating the owner/operator's name and a unique equipment identification number. Identification numbers shall not be reused. One sign shall be placed on each side of the equipment. For those trucks and other equipment intended to be used to haul Debris, the maximum volume (cubic yards) of the load bed shall also be shown. Signs shall be maintained in an easily readable fashion for the duration of the work. Minimum letter size shall be three (3) inches in height.
- (c) The City desires that DMC maximize the use of self-loading trucks (i.e., equipped with grapples or loaders with grapple attachments) to reduce potential collateral damage and to expedite the cleanup operation. Small hand load operations are discouraged.
- (d) All equipment hauling Debris must be certified prior to hauling any Debris.
- (e) All equipment must be in compliance with the proposal specifications and all Applicable Law.
- (f) DMC shall provide all equipment necessary to prepare the site, stockpile the Debris, feed the grinders, remove mulch from the grinding operations, and load and haul for disposal all Non-Burnable Debris and chips/mulch. DMC also shall provide any other equipment that may be necessary to perform in compliance with this Agreement.

3.5.3 DMC shall designate a Project Manager who shall be accessible to the City at all times and shall have full authority to act on behalf of DMC to address and resolve issues that may arise during the course of the work. All communications given to the Project Manager shall be as binding as if given to DMC.

3.5.4 The Project Manager shall be on-call twenty-four (24) hours per day, seven (7) days per week, and shall be available by cell phone. In the event normal communication channels are unavailable, DMC shall provide the Project Manager with reliable means of communication with the City.

3.5.5 The Project Manager shall coordinate daily with the Administrator and Debris Monitor, and shall comply with all directions and guidance provided by federal and state representatives.

- 3.5.6 DMC must attend any and all meetings required by the Administrator to evaluate the Debris removal and disposal operations.
- 3.5.7 Under no circumstances will DMC mix Debris hauled for any other Person with the Debris hauled under this Agreement.
- 3.5.8 DMC and its subcontracted employees are strictly prohibited from engaging in scavenging.

### 3.6 RECORDS KEEPING AND REPORTING

3.6.1 Reporting: DMC periodically shall submit written reports in a format required by the City, documenting the progress of Debris removal and disposal. At a minimum, these reports must include the following:

- (a) Weekly Summaries: Within 2 days after the close of the week, DMC shall submit reports to the City detailing the progress of Debris removal and disposal operations. Such reports must include: (1) a description of all areas where work was done, identifying the specific street names and address blocks where Debris removal was completed during each pass per day; (2) the type and volume or quantity of Debris removed, transported, reduced, and disposed per day; (3) the number of trucks, other equipment, and personnel utilized per day; and (4) other operational and complaint tracking information requested by the City. The format of the reports shall be developed with the City during the pre-event planning and coordination activities. The electronic weekly report shall include DMC or subcontractor name, Load Ticket number, load date, load location, truck yardage, percent full, calculated yardage (or weight, if applicable), field monitor name and number, TDSRS, and tower monitor name.
- (b) Damage Reports: DMC shall notify the Project Manager on a daily basis if there is any significant damage to public or private property or a major problem, such as equipment failure or a loss of qualified labor.
- (c) Data Reconciliation: Reconciliation of data will be accomplished weekly between DMC and the Administrator with the assistance of the Debris Monitor. All discrepancies will be resolved within five (5) days.
- (d) Final Project Closeout: Within thirty (30) days after final inspection and/or closeout of the project by the City, DMC shall prepare and submit a detailed description of all Debris management activities in an electronic spreadsheet. At a minimum, the spreadsheet shall include: the total volume by type of Debris delivered to each location; and the total cost of the project invoiced to the City. DMC shall provide, upon request of the City and/or no later than project closeout, a release of liens demonstrating that all subcontractors to DMC have been fully paid.

DMC will provide any other additional information necessary to adequately document the conduct of the Debris management operations for the City. The final project reconciliation must be approved by the City.

- 3.6.2 Record Keeping: DMC will be subject to audit by federal, state and local agencies pursuant to the Agreement. Accordingly, DMC shall keep throughout the term of the Agreement, all books of accounts and records customarily used in this type of operation, and as from time to time may be required by the City, in accordance with generally accepted accounting principles prescribed by the American Institute of Certified Public Accountants or any successor agency. In addition, Contractor must maintain copies of all reports, records, Debris reporting tickets, and correspondence concerning the work performed under this Agreement. Such books of accounts, records, reports, Debris reporting tickets and correspondence shall be kept for at least eight (8) years following the termination of the Agreement, unless DMC is notified in writing by the City of the need to extend the retention period. Upon the City's request, the Contractor shall scan all reports, Load Tickets, invoices, correspondence, and related records concerning the Contractor's work under this Agreement and then provide electronic copies of all such documents to the City.

The City shall have the right to inspect and audit and examine during normal business hours all such books of accounts, records, and reports relating to DMC's operations hereunder. If the books of accounts and records are kept in a location outside the State of Florida, DMC shall, at its sole cost and expense, arrange for them to be brought to a location convenient to the auditors for the City in order for the City to conduct the audits and inspections as set forth in this Agreement. Failure to maintain books of accounts and records as required shall be deemed a material breach of the Agreement. The City or its representatives shall make available to DMC a copy of any audit report prepared by or on behalf of the City. DMC shall have thirty (30) days from receipt of the audit report from the City or its representatives to provide a written response to the City regarding the audit report. DMC agrees that failure of DMC to submit a written response to the audit report in accordance with the requirements of this Section 3.6.2 shall constitute acceptance of the audit report as issued. The obligations arising out of this Section 3.6.2 and this Agreement shall survive the expiration or earlier termination of this Agreement.

Florida's Public Records Law (Chapter 119, F.S.) requires that all records must be made available upon request by the public, unless they are exempt. This Agreement may be unilaterally cancelled by the City if DMC refuses to comply with the requirements of Florida's Public Records Law. See Section 22, below.

### 3.7 OTHER OPERATIONAL CONSIDERATIONS

- 3.7.1 Inspection: All emergency Debris shall be subject to inspection by the Debris Monitor, Project Manager, and other Governmental Authorities to ensure compliance with the Agreement and Applicable Law. DMC shall provide access to

all work sites, TDSRSs and disposal areas for the Debris Monitor and City at all times.

- 3.7.2 Working Hours: Unless otherwise approved by the City, all activity associated with gathering, loading and hauling Debris shall be performed during visible daylight hours. DMC may work during these hours seven (7) days per week, including holidays. With City approval, Debris reduction activities at the TDSRS may occur twenty-four (24) hours per day, seven (7) days per week, if DMC deems it necessary and safe. DMC shall mandate employee rest breaks and meal times when hourly rates apply and such time shall be posted on the DMC's invoices. It is expected that DMC will work daily until project completion. Holiday leave and TDSRS closures may be authorized based on operational needs, subject to the City's approval. Work locations and assignments of crews must be coordinated daily with the Project Manager and Administrator. DMC shall report at the start of each workday to the Project Manager and Administrator. DMC also must coordinate with the Administrator in the event weather conditions delay or modify the daily schedule. All work, including site restoration prior to closeout, must be completed within thirty (30) calendar days after the DMC receives notice from the City that the last load of Debris has been delivered.
- 3.7.3 Traffic Control: DMC shall mitigate the impact of its operations on local traffic to the greatest extent practicable. DMC is responsible for traffic control, dust control, erosion control, fire protection, on-site roadway maintenance, and safety measures at the temporary Debris staging sites. DMC shall establish and maintain appropriate traffic controls in all work areas, including TDSRS. DMC shall provide sufficient signage, flags, barricades and appropriate public safety personnel to ensure safety of vehicular and pedestrian traffic in all work areas. Closure or blocking of public streets and other Rights-of-Way shall not be permitted unless prior arrangements have been made with the City and coordinated with appropriate City departments. Traffic control is the responsibility of the DMC and shall be accomplished in compliance with federal, state and local safety regulations.
- 3.7.4 Recycling: At the City's request, DMC shall dispose of Recyclable Materials at City Designated Recyclable Facilities. DMC shall be paid based on the actual work performed pursuant to the Agreement, including (when applicable) removal, segregation, reduction and/or disposal of the Debris. There will be no profit sharing between the City and DMC based on the residual value of the Recyclable Materials. DMC shall provide documentation to the City for all items salvaged or recycled, including material type, quantity, and volume.

### 3.8 TECHNICAL ASSISTANCE

DMC may be requested by the City to provide technical expertise and guidance to support the City during the emergency recovery effort, including the following:

- 3.8.1 Assisting in emergency Debris recovery planning efforts, such as disaster recovery plan development and identification of TDSRSs and other resources.

- 3.8.2 Assisting in determining and assessing the impact and magnitude of the emergency event before federal assistance is requested, identifying damaged locations and facilities, assessing and preparing initial estimates of Debris volumes, distinguishing between pre-emergency damage and emergency-generated damage, documenting Eligible costs, and describing the physical and financial impact of the emergency.
- 3.8.3 Providing training sessions for key City personnel.
- 3.8.4 Assisting with developing, producing, and/or distributing public information and press releases concerning the emergency event and recovery efforts.

### 3.9 INVOICE AND PAYMENT

- 3.9.1 All invoices from the DMC must be signed by the DMC. Each type of work must be invoiced separately. DMC must provide the information described below and any other data reasonably requested by the City. All invoices are subject to pre-audit verification and the Administrator's approval prior to payment.
- 3.9.2 Releases of lien, if applicable, must be submitted with invoices.
- 3.9.3 DMC must remit all invoices and supporting information to Adriel Sanchez, Director of the Emergency Management Office, 83 East 5th Street, Hialeah, Florida 33010. A paper copy of each invoice must be provided and electronic copies also may be required.
- 3.9.4 DMC must submit invoices to the City regularly and at least once each 30-day period. Each invoice shall include a Weekly Summary of the Load Tickets. Each invoice shall be further supported by a listing of all Load Tickets being invoiced.
- 3.9.5 Each invoice for on-site chipping work must be completed based upon the unit price (chipped cubic yard), which includes chipping, hauling, machinery, and crew. Load Tickets must clearly indicate "On-Site Chipping".
- 3.9.6 DMC must bill for each TDSRS separately. Debris storage and reduction site operations will be paid based on the total cubic yards of Debris that are delivered to the TDSRS, as recorded on the Load Tickets validated by the Administrator. Chipping and hauling for disposal will be paid based on the total cubic yards of Debris delivered to the temporary site at the time the chips are removed to the final disposal site.
- 3.9.7 Invoices, including personnel work and equipment, must include details such as employee position, the employee's hourly Rate, the equipment used, the actual hours worked, and the hourly Rate for the equipment. The hourly Rates must not exceed the prices included in Exhibits 1, 2, and 3 to this Agreement.
- 3.9.8 The Contractor will not be paid for the removal, transportation, storage, reduction or disposal of any material or Stumps determined by the City or other

Governmental Authority to be not Eligible, unless the City issues advance, explicit written instructions to the Contractor to remove the ineligible Debris. The City shall be the final judge as to whether any material conforms to the definition of Eligible Debris. The City's decision about such matters will be non-appealable.

### 3.10 FORM FHWA-1273

Pursuant to FHWA's guidelines and regulations, Form FHWA-1273 is attached to this Agreement as Exhibit 8 and incorporated herein by reference.

### 3.11 CITY'S OBLIGATIONS FOR MOBILIZATION

3.11.1 The City shall notify DMC when a "hurricane watch" has been established for the City so that DMC can plan for its mobilization. The City shall notify DMC when a "hurricane warning" has been established for the City so DMC can move the crews and equipment required within 300 miles of the City. DMC shall be fully operational within twenty-four (24) hours after receiving a Notice to Proceed from the City.

3.11.2 The City shall furnish all information and documents necessary for the commencement of work, including a valid written Notice to Proceed.

## SECTION 4: INSURANCE

Before the commencement of the Contractor's work under this Agreement, Contractor shall obtain and maintain the following insurance policies, which shall be written by an insurance company authorized to do business in Florida. Thereafter, Contractor shall maintain such insurance in effect at all times until this Agreement expires or is terminated.

1. **General Liability** Insurance with bodily injury limits of not less than \$5,000,000 for each occurrence, and with property damage limits of not less than \$5,000,000 for each occurrence.
2. **Automobile Liability** Insurance with bodily injury limits of not less than \$1,000,000 for each person and not less than \$1,000,000 for each accident and with property damage limits of not less than \$1,000,000 for each accident.
3. **Workers' Compensation** Insurance in accordance with statutory requirements and Employer's Liability Insurance with limits of not less than \$1,000,000 for each accident, \$1,000,000 for each disease, and \$1,000,000 aggregate.
4. **Professional Liability** Insurance with limits of not less than \$5,000,000 annual aggregate.
5. **Pollution Liability** Insurance with limits of not less than \$1,000,000 each claim.
6. **Umbrella Liability** Insurance with limits of not less than \$1,000,000 each claim.

Deductible amounts shall not exceed five percent (5%) of the total amount of required insurance in each category. Should any policy contain any unusual exclusions, said exclusions shall be so indicated on the certificate(s) of insurance.



Contractor shall furnish City certificates of insurance, which shall state that policy cancellation and non-renewal or reduction of coverage will not be effective until at least **thirty (30) days** after written notice is delivered to the City. Contractor shall include City as an **additional insured** on all liability insurance policies required by the Agreement. Contractor shall require all of its subcontractors to include City and Contractor as **additional insureds** on all of their liability insurance policies.

Contractor's naming of the City as an additional insured on all of its liability insurance policies pursuant to this Agreement shall afford coverage for the negligent acts of Contractor pursuant to this Agreement. Notwithstanding anything herein to the contrary, Contractor shall not be responsible for the defense or indemnity of matters arising or resulting solely from the City's negligence.

In the event that subcontractors used by the Contractor do not have insurance or do not meet the insurance limits required herein, Contractor shall indemnify and hold harmless the City for any claim in excess of the subcontractor's insurance coverage.

The insurance provided by the Contractor also shall comply with the requirements in Exhibit 5 (Insurance Requirements) and Exhibit 6 (Insurance Check List), which are attached hereto.

The Contractor shall not commence work under this Agreement until all insurance required herein has been obtained and such insurance has been approved by the City.

## **SECTION 5: STANDARD OF CARE**

The Contractor warrants that all of its services shall be performed by skilled and competent personnel. The Contractor agrees to perform all of its services in a professional and workmanlike manner and in compliance with all Applicable Law. Only the highest quality workmanship will be acceptable. Services, equipment, and workmanship not conforming to the requirements in this Agreement, as determined by the City, may be rejected. The Contractor shall replace or repair equipment, and re-perform any services that fail to satisfy the foregoing standard of care, without any additional charge or cost to the City.

## **SECTION 6: DAMAGES AND INDEMNIFICATION**

### **6.1 GENERAL**

Having considered the risks and potential liabilities that may exist during the performance of the services and in consideration of the promises included herein, City and Contractor agree to allocate such liabilities in accordance with this Section 6.

### **6.2 LIABILITY**

The Contractor shall be liable for all injuries and conditions that are caused by or result from the Contractor's actions, including but not limited to the Contractor's failure to perform in accordance with the terms of this Agreement.

### 6.3 CONTRIBUTION

In the event of joint negligence on the part of the City and the Contractor, all losses and costs shall be apportioned in accordance with the provisions of Section 768.31, Florida Statutes, the Uniform Contribution Among Tortfeasors Act, as it exists on the Effective Date, subject to the recovery limits set forth in Section 768.28, Florida Statutes, in effect on the Effective Date.

### 6.4 DAMAGES

The measure of damages to be paid by the Contractor to the City or by the City to the Contractor, due to any failure by the Contractor or the City to meet any of its obligations under this Agreement, shall be the actual damages incurred by the City or the Contractor. Neither Party shall have any liability under this Agreement for consequential, delay, special, indirect, or punitive damages. The foregoing shall apply except as provided for under either Party's rights to the Performance Bond or insurance proceeds, or as provided by Applicable Law.

If the Contractor fails to comply with any Applicable Law, the Contractor shall promptly pay to the City the following:

- (a) All lawful fines, penalties, and forfeitures charged to the City by any judicial order or by any governmental agency responsible for the enforcement of the Applicable Law; and
- (b) The actual costs incurred by the City as a result of the Contractor's failure to comply with the Applicable Law, including any costs incurred in investigating and remedying the conditions which led to or resulted from the Contractor's failure to comply with the Applicable Law.

If any property is damaged due to the negligent actions of the Contractor, the City may bill the Contractor for the damages or withhold funds due to the Contractor. The determination of whether negligence has occurred shall be made by the City in its exclusive exercise of its discretion.

### 6.5 NO PERSONAL LIABILITY

Nothing in this Agreement shall be construed as creating any personal liability on the part of any officer, employee, agent or representative of the City or the Contractor.

### 6.6 CONTRACTOR'S INDEMNIFICATION OF CITY

To the greatest extent allowed by Applicable Law, the Contractor releases and shall indemnify, hold harmless, and, if requested by the City, defend, each City Indemnified Party from and against any Indemnified Loss. The obligation of the Contractor under this Section 6.6 is absolute and unconditional; to the extent allowed by Applicable Law or not otherwise prohibited, it is not conditioned in any way on any attempt by a City Indemnified Party to

collect from an insurer any amount under a liability insurance policy, and is not subject to any set-off, defense, deduction, or counterclaim that the Contractor might have against the City Indemnified Party.

The City may employ any outside counsel of its choice or may use its in-house counsel to enforce or defend the City's right to indemnity provided by this Agreement. If a City Indemnified Party requests that the Contractor defend it with respect to any Indemnified Loss, the City Indemnified Party may participate in the defense at the Contractor's sole cost and expense. The Contractor shall advance or promptly reimburse to a City Indemnified Party any and all costs and expenses incurred by the City Indemnified Party in connection with investigating, preparing to defend, settling, or defending any legal proceeding for which the City Indemnified Party is entitled to indemnification under this Agreement, whether or not the City Indemnified Party is a party or potential party to it.

#### 6.7 SURVIVAL

Upon completion of all services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Section 6 shall survive and remain in effect.

### **SECTION 7: INDEPENDENT CONTRACTOR**

The Contractor is, and shall be, in the performance of all work, services, and activities under this Agreement, an independent contractor, and not an employee, agent, or servant of the City. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the City shall be that of an independent contractor and not as employees or agents of the City.

The Contractor does not have the power or authority to bind the City in any promise, agreement or representation other than as specifically provided for in this Agreement.

### **SECTION 8: LICENSE TO PRACTICE**

The Contractor hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business at the Contractor's sole expense.

### **SECTION 9: COMPLIANCE WITH LAWS**

When performing the services required by this Agreement, Contractor must comply with all Applicable Law and regulatory requirements, including federal, state, and local laws, rules, regulations, orders, codes, criteria and standards.

### **SECTION 10: SUBCONTRACTORS**

The City reserves its right to accept the use of a subcontractor or to reject the DMC's selection of a particular subcontractor under this Agreement. If a subcontractor fails to perform or make progress as required by this Agreement, and it is necessary to replace the

subcontractor to complete the work in a timely fashion, the Contractor shall promptly do so, subject to the City's acceptance of the new subcontractor.

### **SECTION 11: FEDERAL AND STATE TAXES**

The City is exempt from federal tax and state sales and use taxes. Upon request, the City will provide an exemption certificate to Contractor. The Contractor shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the City, nor shall the Contractor be authorized to use the City's Tax Exemption Number in securing such materials.

### **SECTION 12: AVAILABILITY OF FUNDS**

The obligations of the City under this Agreement are subject to the availability of funds lawfully appropriated for its purpose by the City Council.

### **SECTION 13: PERFORMANCE BOND**

Before the Contractor may commence work, the Contractor shall furnish to the City an irrevocable, annually renewable, Performance Bond for the faithful performance of the Contractor's work under this Agreement and all of the Contractor's obligations hereunder. The amount of the Performance Bond will be determined by the City, based on the City's assessment of the Contractor's scope of work. The amount of the Performance Bond will be equal to one hundred percent (100%) of the estimated cost of the Contractor's services, but shall not exceed Twenty-Five Million Dollars (\$25,000,000). The cost of the Performance Bond shall be included in the unit Rates in Exhibits 1, 2, and 3 for the Contractor's services.

The form and content of the Performance Bond shall be substantially the same as the draft bond in Exhibit 4, and shall be subject to the approval of the City Attorney and Risk Manager. The Performance Bond shall be issued by a surety company that is acceptable to the City. At a minimum, the surety company shall be rated "A" or better as to management and "FSC X" or better as to strength by Best's Insurance Guide or Surety, and shall be listed on the U.S. Treasury Department's list of acceptable sureties for federal bonds. The Surety shall have been in business and have a record of successful and continuous operation for at least five (5) years. The Performance Bond shall: (a) contain any provisions required by Applicable Law; (b) guarantee the performance of the Agreement; and (c) not be canceled, or altered, or not renewed without at least thirty (30) calendar days prior notice to the City. The Contractor shall furnish the Performance Bond to the City Attorney and the Risk Manager, at the address provided in Section 35, below, within ten (10) days after receiving the City's Notice to Proceed. The Performance Bond shall be maintained in full force and effect at all times thereafter during the term of this Agreement. If the Contractor fails to provide and maintain a Performance Bond in compliance with these requirements, the City may terminate this Agreement.

Maintenance of the Performance Bond and the performance by the Contractor of all of the obligations under this Section 13 shall not relieve the Contractor of liability under the default and termination provisions set forth in this Agreement or from any other liability resulting from any breach of this Agreement. The Performance Bond may be "called" and used if there is any default or breach of this Agreement by the Contractor. Calling or using the Performance

Bond shall not restrict or preclude the use of any other remedies available to the City against the Contractor for breach, default, or damages.

#### **SECTION 14: DEFAULT**

The City may, by written notice of default to the Contractor, terminate this Agreement in whole or in part if the Contractor fails to satisfactorily perform any provisions of this Agreement, or fails to make progress so as to endanger performance under the terms and conditions of this Agreement, or provides repeated non-performance, or does not remedy such failure within a period of ten (10) days (or such period as the Administrator may authorize in writing) after receipt of notice from the Administrator specifying such failure. In the event the City terminates this Agreement in whole or in part because of default of the Contractor, the City may procure goods and/or services similar to those terminated, and the Contractor shall be liable for any excess costs incurred due to this action.

If it is determined that the Contractor was not in default or that the default was excusable (e.g., failure due to causes beyond the control of, or without the fault or negligence of, the Contractor), the rights and obligations of the parties shall be those provided in Section 15 – Termination for Convenience.

#### **SECTION 15: TERMINATION FOR CONVENIENCE**

The Mayor may, whenever the interests of the City so require, terminate this Agreement, in whole or in part, for the convenience of the City. The Mayor shall give thirty (30) days prior written notice of termination to the Contractor, specifying the portions of the Agreement to be terminated and when the termination is to become effective. If only portions of the Agreement are terminated, the Contractor has the right to withdraw, without adverse action, from the entire Agreement.

Unless directed differently in the notice of termination, the Contractor shall incur no further obligations in connection with the terminated work, and shall stop work to the extent specified and on the date given in the notice of termination. Additionally, unless directed differently, the successful Contractor shall terminate outstanding orders and/or subcontracts related to the terminated work.

Unless the Contractor is in breach of this Agreement, the Contractor shall be paid for services rendered to the City's satisfaction through the date of termination.

#### **SECTION 16: UNCONTROLLABLE FORCES**

Neither the City nor Contractor shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a Party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming Party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.

Neither Party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the nonperforming Party could have, with the exercise of reasonable diligence, prevented, removed or remedied with reasonable dispatch. The nonperforming Party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other Party describing the circumstances and uncontrollable forces preventing continued performance of the obligation of this Agreement.

#### **SECTION 17: VENUE AND ATTORNEYS' FEES**

This Agreement shall be governed by the laws of the State of Florida. The exclusive venue for legal actions concerning this Agreement shall be the state or federal courts in and for Miami-Dade County. In any dispute or proceeding concerning this Agreement, each Party shall bear its own costs and attorneys' fees. The prevailing party in such cases shall not be entitled to an award of attorneys' fees.

#### **SECTION 18: NO JURY TRIAL**

The Parties agree that any claim filed in state or federal court concerning this Agreement shall be heard by a judge, sitting without a jury. THE CITY AND THE CONTRACTOR HEREBY KNOWINGLY, VOLUNTARILY, AND PERMANENTLY WAIVE ANY RIGHT THEY MAY HAVE TO A JURY TRIAL CONCERNING THE PERFORMANCE, INTERPRETATION, APPLICATION, OR ENFORCEMENT OF THIS AGREEMENT.

#### **SECTION 19: OPERATIONS DURING DISPUTE**

If a dispute arises between the City, the Contractor, or any other Person concerning the Contractor's performance, rights, or compensation under this Agreement, the Contractor shall continue to perform its duties in strict compliance with the requirements of this Agreement, regardless of the pending dispute.

#### **SECTION 20: REMEDIES NOT EXCLUSIVE**

Except as otherwise provided herein, no remedy conferred upon any Party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any Party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

#### **SECTION 21: LIMITATIONS ON LAWSUITS AGAINST THE CITY**

Nothing in this Agreement shall constitute a waiver of the City's sovereign immunity in tort actions or a waiver of any provisions in Section 768.28, Florida Statutes. Nothing in this Agreement shall constitute the City's consent to be sued by any third party in any matter arising out of this Agreement.

## **SECTION 22: PUBLIC RECORDS**

The Contractor shall comply with all applicable requirements contained in the Florida Public Records Law (Chapter 119, Florida Statutes), including any applicable provisions in Section 119.0701, Florida Statutes. To the extent that the Contractor and this Agreement are subject to the requirements in Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the City to perform the services provided hereunder.
- (b) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the City.
- (d) Upon completion of the Agreement, transfer, at no cost, to the City all public records in the possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

If the Contractor fails to comply with the requirements in this Section 17, the City may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the City within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE**

**CITY'S CUSTODIAN OF PUBLIC RECORDS: THE CITY CLERK, BY TELEPHONE (305/883-5820), E-MAIL ([CITYCLERK@HIALEAHFL.GOV](mailto:CITYCLERK@HIALEAHFL.GOV)), OR MAIL (CITY OF HIALEAH, OFFICE OF THE CITY CLERK, 501 PALM AVENUE, 3<sup>RD</sup> FLOOR, HIALEAH, FLORIDA 33010).**

### **SECTION 23: NON-DISCRIMINATION**

Contractor agrees that it shall not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation, and Contractor shall take affirmative steps to ensure that applicants are employed and employees are treated during employment by Contractor without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation. This provision shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. Contractor agrees to furnish the City with a copy of its non-discrimination and equal employment opportunity policy, upon request.

### **SECTION 24: WAIVER**

A waiver by either City or Contractor of any breach of this Agreement shall not be binding upon the waiving Party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving Party's rights with respect to any other or future breach. The making or acceptance of a payment by either Party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

### **SECTION 25: SEVERABILITY**

The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The Parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Section 25 shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

### **SECTION 26: ENTIRETY OF AGREEMENT**

The City and the Contractor agree that this Agreement sets forth the entire agreement between the Parties, and that there are no promises or understandings other than those stated herein. This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters or other communications between the City and Contractor pertaining to the



services required herein, whether written or oral. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered except by written instrument executed by the Parties hereto.

The following exhibits are attached to this Agreement and they are incorporated herein by this reference:

Exhibit 1 through Exhibit 9

After the Effective Date, the Agreement shall be supplemented with and shall include the following:

Performance Bonds and Insurance Certificates

Any amendments to this Agreement that are approved by the Council and Contractor

There are no Agreement documents other than those listed above. In the event of a conflict between this Agreement and the provisions of any exhibit, the provisions of this Agreement shall control when interpreting this Agreement.

## **SECTION 27: MODIFICATION**

The Agreement may not be modified unless such modifications are evidenced in writing signed by both City and Contractor. Such modifications shall be in the form of a written Amendment executed by both Parties.

## **SECTION 28: SUCCESSORS AND ASSIGNS**

City and Contractor each binds itself and its partners, successors, assigns and legal representatives to the other Party to this Agreement and to their partners, successors, executors, administrators, assigns, and legal representatives. Contractor shall not assign this Agreement without the express written approval of the City via executed amendment.

## **SECTION 29: CONTINGENT FEES**

The Contractor warrants that it has not employed or retained any Person other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any Person other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

## **SECTION 30: TRUTH-IN-NEGOTIATION CERTIFICATE**

Execution of this Agreement by the Contractor shall act as the execution of a truth-in-negotiation certificate certifying that the wage Rates and costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of the Agreement.

The said Rates and costs shall be adjusted to exclude any significant sums should the City determine that the Rates and costs were increased due to inaccurate, incomplete or noncurrent wage Rates or due to inaccurate representations of fees paid to outside contractors. The City shall exercise its rights under this "certificate" within one (1) year following payment.

### **SECTION 31: OWNERSHIP OF DOCUMENTS**

Contractor shall be required to cooperate with other contractors relative to providing information requested in a timely manner and in the specified form. Any and all documents, records, disks, original drawings, or other information shall become the property of the City for its use and/or distribution as may be deemed appropriate by the City.

### **SECTION 32: ACCESS AND AUDITS**

Contractor shall maintain financial and program records to justify all charges and costs incurred in performing the work for at least three (3) years after project closeout by FEMA or eight (8) years following final payment by the City, whichever comes last. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit.

In the event records retention requirements in Florida Statutes, Chapters 119 and 257, exceed those of FEMA, the records shall be retained to comply with the State of Florida requirements.

### **SECTION 33: ACCESS TO RECORDS AND THEIR RETENTION**

The Contractor shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the Agreement for at least three (3) years after project closeout by FEMA or eight (8) years after completion or termination of this Agreement, whichever comes last; however, in the event of litigation or the settlement of claims arising from the performance of the Agreement, the Contractor agrees to maintain said records until all litigation, claims, appeals or exceptions related thereto have been resolved. The records shall be maintained at a location in Miami-Dade County, Florida or such other location in Florida approved by the City.

The Contractor shall make all of its books, records, and other documents, related in any manner to its or its subcontractors' performance of the Agreement, available to the City and any other funding entity (e.g., FDOT, FHWA, FEMA, the Comptroller General of the U.S. or any of their authorized representatives) for the purpose of examination, audit, reproduction, excerpts and transcripts, during normal business hours, at the Contractor's place of business or if Contractor's place of business is not located in Miami-Dade County, then at the location for maintenance of records referenced above. The Contractor shall also require its subcontractors to make their books, records and documents available for examination, audit, reproduction, excerpts, and transcripts, for the same duration and in the same manner, and at or near the same locations required herein of Contractor.

## SECTION 34: AUDIT REQUIREMENTS

The Contractor agrees that audits may be undertaken of its records related to its performance of the Agreement as may be authorized or required under OMB Circular A-133, as revised. The Contractor agrees that it will comply and fully cooperate with the City and any state and/or federal funding agency(ies), including but not limited to FDOT, Florida's Auditor General, FHWA, FEMA, or any of their authorized representatives, in any audit or monitoring procedures or processes any such entity(ies) may undertake related to Contractor's performance of the Agreement.

## SECTION 35: NOTICE

Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

(a) If to the City:

Adriel Sanchez  
Director of Emergency Management Office  
City of Hialeah  
83 East 5<sup>th</sup> Street  
Hialeah, FL 33010  
Telephone: 305/863-2847

With a copy to:

City Attorney  
City of Hialeah  
501 Palm Avenue (4<sup>th</sup> Floor)  
Hialeah, FL 33010-4719  
Telephone: 305/883-5854

Director of Public Works  
City of Hialeah  
3700 West 4<sup>th</sup> Avenue  
Hialeah, FL 33012  
Telephone: 305/556-3800

(b) If to the Contractor:

Attn: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

Notices shall be effective when received at the addresses as specified above. Changes in the respective addresses to which such notice is to be directed may be made from time to time by either Party by written notice to the other Party. Facsimile transmission is acceptable notice and effective when received; however, facsimile transmissions received (i.e., printed) after 5:00 p.m. or on weekends or holidays, will be deemed received on the next business day. The

original of the notice also must be mailed as required herein. Nothing contained in this Section 35 shall be construed to restrict the transmission of routine communications between representatives of Contractor and City.

### **SECTION 36: SCRUTINIZED COMPANIES**

As provided in F.S. 287.135, by entering into any Agreement with the City, or performing any work in furtherance hereof, Contractor hereby certifies that Contractor and Contractor's affiliates, suppliers, subcontractors, and contractors who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473. If the City determines, using credible information available to the public, that a false certification has been submitted by Contractor, this Contractor may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed, pursuant to F.S. 287.135.

### **SECTION 37: FLORIDA HIGHWAY ADMINISTRATION (FHWA) FORM 1273**

This Agreement incorporates all of the provisions set forth in the document commonly known as FHWA Form 1273 (Exhibit E), which is attached hereto and incorporated by reference in Exhibit 8. The term "contractor, as used in Exhibit E, shall apply to and mean the Contractor who may also be referred to in Exhibit E as the "prime contractor", "bidder", "proposer", "prospective primary participant", "prospective participant", "participant" or the like. The Contractor will perform the duties and obligations of the other contracting party regardless of the description or label used in FHWA Form 1273, Exhibit E.

The Contractor shall comply with the Davis-Bacon wages rates to the extent applicable to the work performed under this Agreement. The provisions of the Davis-Bacon Act do not apply to debris removal work unless such work is done in conjunction with a construction project or "linked" to a particular federal highway. Wage rate tables may be found at [www.dot.state.fl.us/construction](http://www.dot.state.fl.us/construction). Said wage rate tables are incorporated into and made a part of this Agreement by reference.

### **SECTION 38: BUY AMERICA REQUIREMENTS**

The Contractor agrees to comply with the requirements of the Federal Buy America law (See 23 U.S.C. 313, ISTEA Sections 1041(a) and 1048(a), and FHWA's implementing regulations at 23 CFR 635.410, as they may be amended from time to time), as they relate to federal-aid contracts and the use of steel and iron produced in the United States. A description of the requirements of Buy America is set forth in Exhibit 9, which is attached hereto and incorporated by reference as part of this Agreement. Contractor shall provide a certification statement regarding the origin of all materials or products covered under the Buy America provisions and used in its performance of the Agreement in accordance with the requirements of the City, FDOT, FHWA, and FEMA, to the extent applicable.

### **SECTION 39: DISADVANTAGED BUSINESS ENTERPRISES**

The Agreement is subject to the FEMA, federal and state requirements. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of

the Agreement. The Contractor shall carry out the applicable FEMA, federal and state requirements in the award and administration of this Agreement. Failure by the Contractor to carry out these requirements is a material breach of Agreement, which may result in the termination of this Agreement or such other remedy as the City deems appropriate, including but not limited to the withholding of payments. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph. Upon request, the Contractor will provide the City with a copy of each subcontract it enters into.

The Contractor is required to pay its subcontractors performing work related to this Agreement for satisfactory performance of that work no later than thirty (30) days after the Contractor's receipt of payment for that work from the City. The Contractor may not hold any retainage from its subcontractors unless pursuant to an agreement approved by the City. The Contractor shall return all retainage payments withheld within thirty (30) days after the subcontractor's work has been satisfactorily completed.

The Contractor shall, on a monthly basis, submit payment certifications, including a certification regarding their truth and accuracy, for all payments it is seeking and certifications from all subcontractors indicating who has been paid and how. The certifications shall comply with all federal and state requirements regarding the reporting of DBE participation. Audits may be conducted to review payments to DBE subcontractors. The Contractor will fully cooperate with the City, FDOT, FHWA or FEMA regarding the monitoring of subcontractors and payments made thereto.

#### **SECTION 40: CERTIFICATION REGARDING SUSPENSION AND DEBARMENT**

The Contractor agrees to comply with the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR 180 and 2 CFR § 200.212.

The Contractor must include the requirement to comply with Executive Orders 12549 and 12689, 2 CFR 180 and 2 CFR § 200.212 in any lower tier covered transaction it enters into. The Contractor acknowledges and affirms that by signing and submitting its proposal, the Contractor made the certification described in Section X of the attached FHWA Form 1273, Exhibit E (See Exhibit 8, attached hereto). Contractor's certification is a material representation of fact relied upon by the City. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the City, the state or federal government may pursue any available remedies, including but not limited to suspension and/or debarment. The Contractor further agrees that it will include a provision requiring such compliance in all of its subcontracts or lower tier covered transactions.

#### **SECTION 41: NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)**

The Contractor shall cooperate with the City, FDOT, FHWA and FEMA so as to assure that all activities related to the performance of this Agreement comply with the requirements of the national NEPA of 1969, as amended, and the regulations and guidance related thereto.

## **SECTION 42: AMERICANS WITH DISABILITIES ACT**

The Contractor does hereby represent and certify that it will comply with all of the requirements of the Americans with Disabilities Act of 1990 (42 USC 12102, et seq.), as it may be amended, and all applicable implementing regulations of the U.S. DOT, FHWA, FEMA and other federal-aid agencies.

## **SECTION 43: COMPLIANCE WITH TITLE VI, TITLE VII, AND OTHER FEDERAL LAWS**

The Contractor does hereby represent and certify that it will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 and Title VII of the Civil Rights Act of 1968, as they have been and may be modified from time to time (42 USC 2000d, et. seq. and 3601 et.seq.), and the Age Discrimination and Employment Act of 1967 and Section 303 of the Age Discrimination Act of 1975, as amended (42 USC 6102), and all applicable federal laws and regulations, policies, procedures and directives of the U.S. DOT, FHWA, FEMA, and/or other federal-aid agencies, as they may be promulgated and amended from time to time.

## **SECTION 44: CONVICT LABOR PROHIBITION**

The Contractor does hereby represent and certify that it will comply with the convict labor prohibition in 23 U.S.C. 114, and all implementing regulations thereto.

## **SECTION 45: CERTIFICATION REGARDING LOBBYING ACTIVITIES**

A bidder or proposer for an award of certain federal-aid contracts in the amount of \$100,000 or more, must file the certification required by 49 CFR Part 20. The Contractor confirms that by signing and submitting a proposal for the work covered by this Agreement, it made the certification described in Section XI of the attached FHWA Form 1273, Exhibit E.

## **SECTION 46: CONSTRUCTION OF AGREEMENT**

The following rules shall govern the interpretation and construction of this Agreement:

- (a) The words "include" and "including" shall not be construed to be terms of limitation. References to included matters or items will be regarded as illustrative and will not be interpreted as a limitation on, or an exclusive listing of, the matters or items referred to.
- (b) Whenever the context requires, the singular form of a word includes the plural and the plural includes the singular. The gender of any pronoun includes the other genders.
- (c) Both parties are represented by legal counsel and they waive any rule of law that would require any vague or ambiguous provision herein to be construed against the Party that physically prepared this Agreement. The rule sometimes referred to as "Fortius Contra Proferentum" shall not be applied to the interpretation of this Agreement.

## **SECTION 47: SURVIVABILITY**

Any term, condition, covenant, or obligation which requires performance by a Party subsequent to termination of this Agreement shall remain enforceable against such Party subsequent to such termination.

## **SECTION 48: NO THIRD PARTY BENEFICIARIES**

This Agreement only provides rights and remedies for the City and the Contractor, except and only to the extent that Section 6.6 provides limited rights for City Indemnified Parties. Notwithstanding anything else contained herein, this Agreement does not provide any rights or remedies for any other Person. There are no third party beneficiaries under this Agreement, except City Indemnified Parties.

## **SECTION 49: CONTRACTOR'S REPRESENTATIONS AND WARRANTIES**

The Contractor represents and warrants to the City that:

- (a) The Contractor is a corporation existing in good standing under the laws of the state of its formation, is in good standing under the laws of the State of Florida, and is duly qualified to do business wherever necessary to carry on the business and operations contemplated by this Agreement.
- (b) The Contractor has the requisite power, authority, and legal right to enter into and perform its obligations under this Agreement and possesses all orders, permits, consents, licenses, approvals, franchises, certificates, registrations, and other authorizations from third parties and governmental authorities that are necessary to conduct its current business and to satisfy its duties and obligations under this Agreement.
- (c) This Agreement has been duly executed and delivered by the Contractor and, as of the Effective Date, constitutes a legal, valid, and binding obligation of the Contractor, enforceable by the City against the Contractor in accordance with its terms, except to the extent its enforceability is limited by the application of general principles of equity and by bankruptcy, insolvency, moratorium, debtor relief, and similar laws of general application affecting the enforcement of creditor rights and debtor obligations.
- (d) The execution, delivery, and performance of this Agreement by the Contractor: (1) have been duly authorized; (2) do not require the approval of any governmental officer or body, other than those permits or approvals contemplated to be obtained by the Contractor after the Effective Date; (3) have been duly authorized by all requisite action of the Contractor, and no other proceedings on the part of the Contractor, its officers, partners or managers are necessary to authorize this Agreement or to perform the duties and obligations of the Contractor contemplated by it; (4) will not violate any law applicable to the Contractor or its property or any provisions of the Contractor's articles of incorporation or by-laws; (5) do not constitute a default under or result in the

creation of, any lien, charge, encumbrance, or security interest upon any assets of the Contractor under any agreement or instrument to which the Contractor is a Party or by which the Contractor or its assets may be bound or affected in any manner that prohibits or otherwise adversely affects the Contractor's ability to perform its obligations under this Agreement; and (6) do not and will not violate any copyrights, patents, or other intellectual or proprietary rights of any Person.

- (e) To the best of the Contractor's information and belief, there is no action, suit, or proceeding, at law or in equity, before or by any court or governmental authority pending against the City or the Contractor, in which an unfavorable decision, ruling, or finding would materially and adversely affect the performance by the Contractor of its obligations under this Agreement, or that in any way would adversely affect the validity or enforceability of this Agreement, or any other agreement or instrument entered into by the Contractor or any of its affiliates in connection with this Agreement.
- (f) The Contractor did not engage, directly or indirectly, in any collusion, bribery, deception, or fraud in connection with its efforts to procure the work awarded under this Agreement.
- (g) None of the agents, members, managers, partners, officers, directors, employees, or executives of the Contractor, or any affiliate that is active in the management of the Contractor, has been convicted of a public entity crime, as defined in Section 287.133(g), Florida Statutes.
- (h) The personnel employed by the Contractor have the proper skill, licenses, training, background, knowledge, experience, authorizations, integrity, and character necessary to perform the Contractor's obligations in compliance with this Agreement.
- (i) No City employee received or will receive, directly or indirectly, any benefit, interest, or profit out of the procurement process that resulted in the award of this Agreement or in connection with this Agreement or the services to be provided pursuant to this Agreement, and no City employee has or will have any direct or indirect financial interest in the award of this Agreement or any of the services to be provided pursuant to this Agreement.



IN WITNESS WHEREOF, the Parties have made and executed this Agreement, as attested to by the signature of their duly authorized officers or representatives and their official seals affixed hereon, the day and year first above written.

Attest:

CITY OF HIALEAH, by and through its  
City Council

\_\_\_\_\_  
Marbelys Fatjo, Clerk  
City Council of the City of Hialeah,  
Florida

\_\_\_\_\_  
By: Carlos Hernandez, Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 2016

Approved as to form and legal sufficiency

\_\_\_\_\_  
Lorena Bravo  
City Attorney

(CITY SEAL)

WITNESSES:

CONTRACTOR

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_ day of \_\_\_\_\_, 2016

ATTEST:

\_\_\_\_\_  
SECRETARY

STATE OF FLORIDA                    )  
  ) SS:  
COUNTY OF                            )

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared \_\_\_\_\_ as \_\_\_\_\_, of \_\_\_\_\_, an organization authorized to do business in the State of Florida, and he/she executed the foregoing Agreement as the proper official of \_\_\_\_\_ for the uses and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal in the state and county aforesaid on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:



## EXHIBIT 1 – COST PROPOSAL AND PRICE SCHEDULE FORM

### DISASTER RECOVERY AND DEBRIS REMOVAL SERVICES RFP No.: 2015-16-8500-36-002

All prices noted in this form are considered baseline estimates. Actual prices that will be charged must be justified at the time a work authorization is approved. All costs must be based upon actual work performed and reasonable expenses for labor, equipment, material, and overhead. Under no circumstances will actual prices exceed the cost estimates included in this form, or exceed the reimbursable limits acceptable to FEMA, or exceed the amounts approved in a work authorization.

CATEGORY	FIELD NAME AND DESCRIPTION	UNIT	COST PER UNIT
VEGETATIVE COLLECT AND HAUL	0-15 Miles Veg. from Right of Way (ROW) to Temporary Debris Management Site (TDSRS) <i>Vegetative collect and removal for a haul distance up to 15.99 miles</i>	CY	
	16-30 Miles Veg from ROW to TDSRS <i>Vegetative collect and removal for a haul distance between 16 and 30.99 miles</i>	CY	
	31-60 Miles Veg from ROW to TDSRS <i>Vegetative collect and removal for a haul distance between 31 and 60.99 miles</i>	CY	
	60+ Miles Veg from ROW to TDSRS <i>Vegetative collect and removal for a haul distance greater than 60.99 miles</i>	CY	
	Single Price Veg from ROW to TDSRS <i>A single price vegetative collect and removal for any haul distance</i>	CY	
MANAGEMENT AND REDUCTION	Grinding <i>Grinding/chipping vegetative Debris</i>	CY	
	Air Curtain Burning <i>Air Curtain Burning vegetative Debris</i>	CY	
	Open Burning <i>Open Burning vegetative Debris</i>	CY	
	Compacting <i>Compacting vegetative Debris</i>	CY	
	Temporary Debris Management Site <i>Preparation, management, and segregating at Debris management site</i>	CY	

<b>C&amp;D COLLECT AND HAUL</b>	0-15 Miles C&D from ROW to TDSRS <i>C&amp;D collect and removal for a haul distance up to 15.99 miles</i>	<b>CY</b>	
	16-30 Miles C&D from ROW to TDSRS <i>C&amp;D collect and removal for a haul distance between 16 and 30.99 miles</i>	<b>CY</b>	
	31-60 Miles C&D from ROW to TDSRS <i>C&amp;D collect and removal for a haul distance between 31 and 60.99 miles</i>	<b>CY</b>	
	60+ Miles C&D from ROW to TDSRS <i>C&amp;D collect and removal for a haul distance greater than 60.99 miles</i>	<b>CY</b>	
	Single Price C&D from ROW to TDSRS <i>A single price C&amp;D collect and removal for any haul distance</i>	<b>CY</b>	
<b>FINAL DISPOSAL</b>	0-15 Miles from TDSRS to Final Disposal <i>Transport processed Debris from TDSRS to final disposal 0-15.99 miles</i>	<b>CY</b>	
	16-30 Miles from TDSRS to Final Disposal <i>Transport processed Debris from TDSRS to final disposal 16-30.99 miles</i>	<b>CY</b>	
	31-60 Miles from TDSRS to Final Disposal <i>Transport processed Debris from TDSRS to final disposal 31-60.99 miles</i>	<b>CY</b>	
	60+ Miles from TDSRS to Final Disposal <i>Transport processed Debris from TDSRS to final disposal greater than 60.99 miles</i>	<b>CY</b>	
	Single Price from TDSRS to Final Disposal <i>A single price Transport processed Debris from TDSRS to final disposal</i>	<b>CY</b>	
	Tipping Fees (Vegetative) <i>Fee includes negotiated contract price of pass through amount for vegetative</i>	<b>CY</b>	
	Tipping Fees (Mix) <i>Fee includes negotiated contract price of pass through amount for Mix</i>	<b>CY</b>	
	Tipping Fees (C&D) <i>Fee includes negotiated contract price of pass through amount for C&amp;D</i>	<b>CY</b>	

<b>TREE/STUMPS OPERATIONS</b>	Hazardous Trees 6"-12" <i>Hazardous tree removal for a 6-12 inch trunk diameter</i>	<b>Tree</b>	
	Hazardous Trees 13"-24" <i>Hazardous tree removal for a 13-24 inch trunk diameter</i>	<b>Tree</b>	
	Hazardous Trees 25"-36" <i>Hazardous tree removal for a 25-36 inch trunk diameter</i>	<b>Tree</b>	
	Hazardous Trees 37"-48" <i>Hazardous tree removal for a 37-48 inch trunk diameter</i>	<b>Tree</b>	
	Hazardous Trees 49"+ <i>Hazardous tree removal for a 40+ inch trunk diameter</i>	<b>Tree</b>	
	Trees with Hazardous Limbs >2" <i>Hazardous hanging limb removal</i>	<b>Tree</b>	
	Hazardous Stumps >24"-36" <i>Hazardous Stump removal of a Stump with a 24-36 inch diameter Stumps with &lt;24" inch diameter shall be treated as normal Vegetative Debris)</i>	<b>Stump</b>	
	Hazardous Stumps >37"-48" <i>Hazardous Stump removal of a Stump with a 37-48 inch diameter</i>	<b>Stump</b>	
	Hazardous Stumps >49" <i>Hazardous Stump removal of a Stump with a 49+inch diameter</i>	<b>Stump</b>	
	Stump Fill Dirt <i>Fill dirt for Stump holes after removal</i>	<b>CY</b>	
<b>SPECIALTY REMOVAL AND ADDITIONAL SERVICES</b>	Waterway Debris Removal <i>Debris Removal from canals, rivers, creeks, streams, and ditches</i>	<b>CY</b>	
	Vehicle Removal <i>Removal of eligible vehicle. Including towing and processing.</i>	<b>Unit</b>	
	Vessel Removal (Land) <i>Removal of eligible vessel. Including processing.</i>	<b>Lineal Foot (LF)</b>	
	ROW White Goods removal <i>Pick up and haul of white goods to disposal site within the County</i>	<b>Unit</b>	
	Freon Management <i>Freon management and recycling</i>	<b>Unit</b>	
	Putrescent Removal <i>Removal, transportation and disposal of Debris that will decompose or rot (animals and organic fleshy matter)</i>		
	Hazardous Waste <i>Collection, removal, transportation, processing and disposal of Hazardous Waste</i>	<b>Pound</b>	
	Ice <i>Per pound delivered</i>	<b>Pound</b>	
	Water <i>Per gallon delivered</i>	<b>Gallon</b>	
	Emergency Fuel Gasoline <i>Per gallon delivered</i>	<b>Gallon</b>	



## EXHIBIT 2 – COST PROPOSAL HOURLY LABOR RATES

### DISASTER RECOVERY AND DEBRIS REMOVAL SERVICES

RFP No.: 2015-16-8500-36-002

Proposer shall provide hourly rates for key personnel and other personnel comprised in its organizational structure and operational plan not previously included in this Form. Proposer shall invoice the City using hourly rates only during events that are not declared emergencies and during the first seventy (70) hours after a declared emergency.

LABOR CATEGORY	JOB DESCRIPTION	HOURLY LABOR RATE (U.S. DOLLARS)

Use additional sheets if necessary

## EXHIBIT 3 – COST PROPOSAL EQUIPMENT RATES

### DISASTER RECOVERY AND DEBRIS REMOVAL SERVICES RFP No.: 2015-16-8500-36-002

The rates on this Schedule of Equipment Rates are for applicant-owned equipment in good mechanical condition, complete with all required attachments. Each rate covers all costs eligible under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121, et seq., for ownership and operation of equipment, including depreciation, overhead, all maintenance, field repairs, fuel, lubricants, tires, OSHA equipment and other costs incidental to operation. Equipment must be in actual operation performing eligible work. LABOR COSTS OF OPERATOR ARE NOT INCLUDED in the rates and should be approved separately from equipment costs. If Proposer does not have in inventory or intend to use specific equipment, it should indicate so by including “Non-Applicable” or “N/A” in the Rate column.

EQUIPMENT	SPECIFICATION	CAPACITY/ SIZE	HP	NOTES	UNIT	RATE
Aerial Lift, Self-Propelled	Max. Platform Height	37 ft	to 15	Articulated, Telescoping, Scissor.	Hour	
Aerial Lift, Self-Propelled	Max. Platform Height	60 ft	to 30	Articulated, Telescoping, Scissor.	Hour	
Aerial Lift, Self-Propelled	Max. Platform Height	70 ft	to 50	Articulated, Telescoping, Scissor.	Hour	
Aerial Lift, Self-Propelled	Max. Platform Height	125 ft	to 85	Articulated and Telescoping.	Hour	
Aerial Lift, Self-Propelled	Max. Platform Height	150 ft	to 130	Articulated and Telescoping.	Hour	
Aerial Lift, Truck Mntd	Max. Platform Height	40 ft		Articulated and Telescoping. Add to Truck rate for total rate.	Hour	
Aerial Lift, Truck Mntd	Max. Platform Height	61 ft		Articulated and Telescoping. Add to Truck rate for total rate.	Hour	
Aerial Lift, Truck Mntd	Max. Platform Height	80 ft		Articulated and Telescoping. Add to Truck rate for total rate.	Hour	
Aerial Lift, Truck Mntd	Max. Platform Height	100 ft		Articulated and Telescoping. Add to Truck rate for total rate.	Hour	
Air Compressor	Air Delivery	41 cfm	to 10	Hoses included.	Hour	
Air Compressor	Air Delivery	103 cfm	to 30	Hoses included.	Hour	
Air Compressor	Air Delivery	130 cfm	to 50	Hoses included.	Hour	
Air Compressor	Air Delivery	175 cfm	to 90	Hoses included.	Hour	
Air Compressor	Air Delivery	400 cfm	to 145	Hoses included.	Hour	
Air Compressor	Air Delivery	575 cfm	to 230	Hoses included.	Hour	

Air Compressor	Air Delivery	1100 cfm	to 355	Hoses included.	Hour	
Air Compressor	Air Delivery	1600 cfm	to 500	Hoses included.	Hour	
Auger, Portable	Hole Diameter	16 in	to 6		Hour	
Auger, Portable	Hole Diameter	18 in	to 13		Hour	
Auger, Tractor Mntd	Max. Auger Diameter	36 in	to 13	Includes digger, boom and mounting hardware. Add to Tractor rate for total rate.	Hour	
Auger, Truck Mntd	Max. Auger Size	24 in	to 100	Includes digger, boom and mounting hardware. Add to Truck rate for total rate.	Hour	
Automobile			to 130	Transporting people.	Mile	
Automobile			to 130	Transporting cargo.	Hour	
Barge, Deck	Size	50'x35'x7.25'			Hour	
Barge, Deck	Size	50'x35'x9'			Hour	
Barge, Deck	Size	120'x45'x10'			Hour	
Barge, Deck	Size	160'x45'x11'			Hour	
Board, Arrow			to 8	Trailer Mounted.	Hour	
Board, Message			to 5	Trailer Mounted.	Hour	
Boat, Push	Size	45'x21'x6'	to 435	Flat hull.	Hour	
Boat, Push	Size	54'x21'x6'	to 525	Flat hull.	Hour	
Boat, Push	Size	58'x24'x7.5'	to 705	Flat hull.	Hour	
Boat, Push	Size	64'x25'x8'	to 870	Flat hull.	Hour	
Boat, Row				Heavy duty.	Hour	
Boat, Runabout	Size	13'x5'	to 50	Outboard.	Hour	
Boat, Tender	Size	14'x7'	to 100	Inboard with 360 degree drive.	Hour	
Boat, Tow	Size	55'x20'x5'	to 870	Steel.	Hour	
Boat, Tow	Size	60'x21'x5'	to 1050	Steel.	Hour	
Boat, Tow	Size	70'x30'x7.5'	to 1350	Steel.	Hour	
Boat, Tow	Size	120'x34'x8'	to 2000	Steel.	Hour	
Boat, Tug	Length	16 ft	to 100		Hour	
Boat, Tug	Length	18 ft	to 175		Hour	



Boat, Tug	Length	26 ft	to 250		Hour	
Boat, Tug	Length	40 ft	to 380		Hour	
Boat, Tug	Length	51 ft	to 700		Hour	
Breaker, Pavement, Hand-Held	Weight	25-90 lb			Hour	
Breaker, Pavement			to 70		Hour	
Broom, Pavement	Broom Length	72 in	to 35		Hour	
Broom, Pavement	Broom Length	96 in	to 100		Hour	
Broom, Pavement, Mntd	Broom Length	72 in	to 18	Add to Prime Mover rate for total rate.	Hour	
Broom, Pavement, Pull	Broom Length	84 in	to 20	Add to Prime Mover rate for total rate.	Hour	
Bucket, Clamshell	Capacity	1.0 cy		Includes teeth. Does not include Clamshell & Dragline.	Hour	
Bucket, Clamshell	Capacity	2.5 cy		Includes teeth. Does not include Clamshell & Dragline.	Hour	
Bucket, Clamshell	Capacity	5.0 cy		Includes teeth. Does not include Clamshell & Dragline.	Hour	
Bucket, Clamshell	Capacity	7.5 cy		Includes teeth. Does not include Clamshell & Dragline.	Hour	
Bucket, Dragline	Capacity	2.0 cy		Does not include Clamshell & Dragline.	Hour	
Bucket, Dragline	Capacity	5.0 cy		Does not include Clamshell & Dragline.	Hour	
Bucket, Dragline	Capacity	10 cy		Does not include Clamshell & Dragline.	Hour	
Bucket, Dragline	Capacity	14 cy		Does not include Clamshell & Dragline.	Hour	
Bus			to 150		Hour	
Bus			to 210		Hour	
Bus			to 300		Hour	
Chain Saw	Bar Length	16 in			Hour	
Chain Saw	Bar Length	25 in			Hour	
Chain Saw, Pole	Bar Size	18 in			Hour	
Chipper, Brush	Chipping Capacity	6 in	to 35	Trailer Mounted.	Hour	
Chipper, Brush	Chipping Capacity	9 in	to 65	Trailer Mounted.	Hour	
Chipper, Brush	Chipping Capacity	12 in	to 100	Trailer Mounted.	Hour	
Chipper, Brush	Chipping Capacity	15 in	to 125	Trailer Mounted.	Hour	
Chipper, Brush	Chipping Capacity	18 in	to 200	Trailer Mounted.	Hour	

Clamshell & Dragline, Crawler		149,999 lb	to 235	Bucket not included in rate.	Hour	
Clamshell & Dragline, Crawler		250,000 lb	to 520	Bucket not included in rate.	Hour	
Clamshell & Dragline, Truck			to 240	Bucket not included in rate.	Hour	
Cleaner, Sewer/Catch Basin	Hopper Capacity	5 cy		Truck Mounted. Add to Truck rate for total rate.	Hour	
Cleaner, Sewer/Catch Basin	Hopper Capacity	14 cy		Truck Mounted. Add to Truck rate for total rate.	Hour	
Compactor			to 10		Hour	
Compactor, Towed, Vibratory Drum			to 45		Hour	
Compactor, Vibratory, Drum			to 75		Hour	
Compactor, Pneumatic, Wheel			to 100		Hour	
Compactor, Sanitation			to 300		Hour	
Compactor, Sanitation			to 400		Hour	
Compactor, Sanitation			to 535		Hour	
Compactor, Towed, Pneumatic, Wheel		10000 lb		Add to Prime Mover rate for total rate.	Hour	
Compactor, Towed, Drum Static		20000 lb		Add to Prime Mover rate for total rate.	Hour	
Crane	Max. Lift Capacity	8 MT	to 80		Hour	
Crane	Max. Lift Capacity	15 MT	to 150		Hour	
Crane	Max. Lift Capacity	50 MT	to 200		Hour	
Crane	Max. Lift Capacity	70 MT	to 300		Hour	
Crane	Max. Lift Capacity	110 MT	to 350		Hour	
Crane, Truck Mntd	Max. Lift Capacity	24000 lb		Add to Truck rate for total rate.	Hour	
Crane, Truck Mntd	Max. Lift Capacity	36000 lb		Add to Truck rate for total rate.	Hour	
Crane, Truck Mntd	Max. Lift Capacity	60000 lb		Add to Truck rate for total rate.	Hour	
Cutter, Brush	Cutter Size	8 ft	to 150		Hour	
Cutter, Brush	Cutter Size	8 ft	to 190		Hour	
Cutter, Brush	Cutter Size	10 ft	to 245		Hour	
Derrick, Hydraulic Digger	Max. Boom Length	60 ft		Includes hydraulic pole alignment attachment. Add to Truck rate.	Hour	
Derrick, Hydraulic Digger	Max. Boom Length	90 ft		Includes hydraulic pole alignment attachment. Add to Truck rate.	Hour	

Distributor, Asphalt	Tank Capacity	500 gal		Insulated tank, and circulating spray bar.	Hour	
Distributor, Asphalt	Tank Capacity	1000 gal		Truck Mounted. Includes burners, insulated tank, and circulating spray bar. Add to Truck rate.	Hour	
Distributor, Asphalt	Tank Capacity	4000 gal		Truck Mounted. Includes burners, insulated tank, and circulating spray bar. Add to Truck rate.	Hour	
Dozer, Crawler			to 75		Hour	
Dozer, Crawler			to 105		Hour	
Dozer, Crawler			to 160		Hour	
Dozer, Crawler			to 250		Hour	
Dozer, Crawler			to 360		Hour	
Dozer, Crawler			to 565		Hour	
Dozer, Crawler			to 850		Hour	
Dozer, Wheel			to 300		Hour	
Dozer, Wheel			to 400		Hour	
Dozer, Wheel			to 500		Hour	
Dozer, Wheel			to 625		Hour	
Excavator, Hydraulic	Bucket Capacity	0.5 cy	to 45	Crawler, Truck & Wheel. Includes bucket.	Hour	
Excavator, Hydraulic	Bucket Capacity	1.0 cy	to 90	Crawler, Truck & Wheel. Includes bucket.	Hour	
Excavator, Hydraulic	Bucket Capacity	1.5 cy	to 160	Crawler, Truck & Wheel. Includes bucket.	Hour	
Excavator, Hydraulic	Bucket Capacity	2.5 cy	to 265	Crawler, Truck & Wheel. Includes bucket.	Hour	
Excavator, Hydraulic	Bucket Capacity	4.5 cy	to 420	Crawler, Truck & Wheel. Includes bucket.	Hour	
Excavator, Hydraulic	Bucket Capacity	7.5 cy	to 650	Crawler, Truck & Wheel. Includes bucket.	Hour	
Excavator, Hydraulic	Bucket Capacity	12 cy	to 1000	Crawler, Truck & Wheel. Includes bucket.	Hour	
Feeder, Grizzly			to 35		Hour	
Feeder, Grizzly			to 55		Hour	
Feeder, Grizzly			to 75		Hour	
Fork Lift	Capacity	6000 lb	to 60		Hour	
Fork Lift	Capacity	12000 lb	to 90		Hour	
Fork Lift	Capacity	18000 lb	to 140		Hour	

Fork Lift	Capacity	50000 lb	to 215		Hour	
Generator	Prime Output	5.5 kW	to 10		Hour	
Generator	Prime Output	16 kW	to 25		Hour	
Generator	Prime Output	43 kW	to 65		Hour	
Generator	Prime Output	100 kW	to 125		Hour	
Generator	Prime Output	150 kW	to 240		Hour	
Generator	Prime Output	210 kW	to 300		Hour	
Generator	Prime Output	280 kW	to 400		Hour	
Generator	Prime Output	350 kW	to 500		Hour	
Generator	Prime Output	530 kW	to 750		Hour	
Generator	Prime Output	710 kW	to 1000		Hour	
Generator	Prime Output	1100 kW	to 1500		Hour	
Generator	Prime Output	2500 kW	to 3000		Hour	
Golf Cart	Capacity	2 person			Hour	
Graders	Moldboard Size	10 ft	to 110	Includes Rigid and Articulate	Hour	
Graders	Moldboard Size	12 ft	to 150	Includes Rigid and Articulate	Hour	
Graders	Moldboard Size	14 ft	to 225	Includes Rigid and Articulate	Hour	
Hose, Discharge	Diameter	3 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Discharge	Diameter	4 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Discharge	Diameter	6 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Discharge	Diameter	8 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Discharge	Diameter	12 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Discharge	Diameter	16 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Suction	Diameter	3 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Suction	Diameter	4 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Suction	Diameter	6 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Suction	Diameter	8 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Suction	Diameter	12 in		Per 25 foot length. Includes couplings.	Hour	
Hose, Suction	Diameter	16 in		Per 25 foot length. Includes couplings.	Hour	
Jackhammer (Dry)	Weight Class	25-45 lb			Hour	

Jackhammer (Wet)	Weight Class	30-55 lb			Hour	
Loader, Crawler	Bucket Capacity	0.5 cy	to 32	Includes bucket.	Hour	
Loader, Crawler	Bucket Capacity	1 cy	to 60	Includes bucket.	Hour	
Loader, Crawler	Bucket Capacity	2 cy	to 118	Includes bucket.	Hour	
Loader, Crawler	Bucket Capacity	3 cy	to 178	Includes bucket.	Hour	
Loader, Crawler	Bucket Capacity	4 cy	to 238	Includes bucket.	Hour	
Loader, Skid-Steer	Operating Capacity	1000 lb	to 35		Hour	
Loader, Skid-Steer	Operating Capacity	2000 lb	to 65		Hour	
Loader, Skid-Steer	Operating Capacity	3000 lb	to 85		Hour	
Loader, Tractor, Wheel			to 81		Hour	
Loader, Wheel	Bucket Capacity	0.5 cy	to 38		Hour	
Loader, Wheel	Bucket Capacity	1 cy	to 60		Hour	
Loader, Wheel	Bucket Capacity	2 cy	to 105		Hour	
Loader, Wheel	Bucket Capacity	3 cy	to 152		Hour	
Loader, Wheel	Bucket Capacity	4 cy	to 200		Hour	
Loader, Wheel	Bucket Capacity	5 cy	to 250		Hour	
Loader, Wheel	Bucket Capacity	6 cy	to 305		Hour	
Loader, Wheel	Bucket Capacity	7 cy	to 360		Hour	
Loader, Wheel	Bucket Capacity	8 cy	to 530		Hour	
Loader-Backhoe, Wheel	Loader Bucket Capacity	0.5 cy	to 40	Loader and Backhoe Buckets included.	Hour	
Loader-Backhoe, Wheel	Loader Bucket Capacity	1 cy	to 70	Loader and Backhoe Buckets included.	Hour	
Loader-Backhoe, Wheel	Loader Bucket Capacity	1.5 cy	to 95	Loader and Backhoe Buckets included.	Hour	
Loader-Backhoe, Wheel	Loader Bucket Capacity	1.75 cy	to 115	Loader and Backhoe Buckets included.	Hour	
Mixer, Concrete Portable	Batching Capacity	10 cft			Hour	
Mixer, Concrete Portable	Batching Capacity	12 cft			Hour	
Mixer, Concrete, Trailer	Batching Capacity	11 cft	to 10		Hour	
Mixer, Concrete, Trailer	Batching Capacity	16 cft	to 25		Hour	
Mulcher, Trailer Mntd	Working Capacity	7 tph	to 35		Hour	
Mulcher, Trailer Mntd	Working Capacity	10 tph	to 55		Hour	

Mulcher, Trailer Mntd	Working Capacity	20 tph	to 120		Hour	
Paver, Asphalt, Towed				Does not include Prime Mover.	Hour	
Paver, Asphalt			to 50	Includes wheel and crawler equipment.	Hour	
Paver, Asphalt			to 125	Includes wheel and crawler equipment.	Hour	
Paver, Asphalt			to 175	Includes wheel and crawler equipment.	Hour	
Paver, Asphalt			to 250	Includes wheel and crawler equipment.	Hour	
Pick-up, Asphalt			to 110		Hour	
Pick-up, Asphalt			to 150		Hour	
Pick-up, Asphalt			to 200		Hour	
Pick-up, Asphalt			to 275		Hour	
Plow, Cable	Plow Depth	24 in	to 30		Hour	
Plow, Cable	Plow Depth	36 in	to 65		Hour	
Plow, Cable	Plow Depth	48 in	to 110		Hour	
Plow, Snow, Grader Mntd	Width	to 10 ft		Add to Grader for total rate.	Hour	
Plow, Snow, Grader Mntd	Width	to 14 ft		Add to Grader for total rate.	Hour	
Plow, Snow, Truck Mntd	Width	to 15 ft		Add to Truck rate for total rate.	Hour	
Plow, Snow, Truck Mntd	Width	to 15 ft		With leveling wing. Add to Truck rate for total rate.	Hour	
Pump			to 4	Does not include Hoses.	Hour	
Pump			to 6	Does not include Hoses.	Hour	
Pump			to 10	Does not include Hoses.	Hour	
Pump			to 15	Does not include Hoses.	Hour	
Pump			to 25	Does not include Hoses.	Hour	
Pump			to 40	Does not include Hoses.	Hour	
Pump			to 60	Does not include Hoses.	Hour	
Pump			to 95	Does not include Hoses.	Hour	
Pump			to 140	Does not include Hoses.	Hour	
Pump			to 200	Does not include Hoses.	Hour	
Pump			to 275	Does not include Hoses.	Hour	
Pump			to 350	Does not include Hoses.	Hour	

Pump			to 425	Does not include Hoses.	Hour	
Pump			to 500	Does not include Hoses.	Hour	
Pump			to 575	Does not include Hoses.	Hour	
Pump			to 650	Does not include Hoses.	Hour	
Saw, Concrete	Blade Diameter	14 in	to 14		Hour	
Saw, Concrete	Blade Diameter	26 in	to 35		Hour	
Saw, Concrete	Blade Diameter	48 in	to 65		Hour	
Saw, Rock			to 100		Hour	
Saw, Rock			to 200		Hour	
Scraper	Scraper Capacity	16 cy	to 250		Hour	
Scraper	Scraper Capacity	23 cy	to 365		Hour	
Scraper	Scraper Capacity	34 cy	to 475		Hour	
Scraper	Scraper Capacity	44 cy	to 600		Hour	
Snow Blower	Capacity	2,000 tph	to 400		Hour	
Snow Blower	Capacity	2,500 tph	to 500		Hour	
Snow Blower	Capacity	3,500 tph	to 600		Hour	
Snow Blower, Truck Mntd	Capacity	600 tph	to 75	Does not include Truck.	Hour	
Snow Blower, Truck Mntd	Capacity	1400 tph	to 200	Does not include Truck.	Hour	
Snow Blower, Truck Mntd	Capacity	2000 tph	to 340	Does not include Truck.	Hour	
Snow Blower, Truck Mntd	Capacity	2500 tph	to 400	Does not include Truck.	Hour	
Snow Thrower, Walk Behind	Cutting Width	25 in	to 5		Hour	
Snow Thrower, Walk Behind	Cutting Width	60 in	to 15		Hour	
Sprayer, Seed	Working Capacity	750 gal	to 30	Trailer & Truck mounted. Does not include Prime Mover.	Hour	
Sprayer, Seed	Working Capacity	1250 gal	to 50	Trailer & Truck mounted. Does not include Prime Mover.	Hour	
Sprayer, Seed	Working Capacity	3500 gal	to 115	Trailer & Truck mounted. Does not include Prime Mover.	Hour	
Spreader, Chemical	Capacity	5 cy	to 4	Trailer & Truck mounted. Does not include Prime Mover.	Hour	

Spreader, Chip	Spread Hopper Width	12.5 ft	to 152		Hour	
Spreader, Chip	Spread Hopper Width	16.5 ft	to 215		Hour	
Spreader, Chip, Mntd	Hopper Size	8 ft	to 8	Trailer & Truck mounted.	Hour	
Spreader, Sand	Mounting	Tailgate, Chassis			Hour	
Spreader, Sand	Mounting	Dump Body			Hour	
Spreader, Sand	Mounting	Truck (10 yd)			Hour	
Striper	Paint Capacity	40 gal	to 22		Hour	
Striper	Paint Capacity	90 gal	to 60		Hour	
Striper	Paint Capacity	120 gal	to 122		Hour	
Striper, Truck Mntd	Paint Capacity	120 gal	to 460		Hour	
Striper, Walk-behind	Paint Capacity	12 gal			Hour	
Sweeper, Pavement			to 110		Hour	
Sweeper, Pavement			to 230		Hour	
Trailer, Dump	Capacity	20 cy		Does not include Prime Mover.	Hour	
Trailer, Dump	Capacity	30 cy		Does not include Prime Mover.	Hour	
Trailer, Equipment	Capacity	30 ton			Hour	
Trailer, Equipment	Capacity	40 ton			Hour	
Trailer, Equipment	Capacity	60 ton			Hour	
Trailer, Equipment	Capacity	120 ton			Hour	
Trailer, Office	Trailer Size	8' x 24'			Hour	
Trailer, Office	Trailer Size	8' x 32'			Hour	
Trailer, Office	Trailer Size	10' x 32'			Hour	
Trailer, Water	Tank Capacity	4000 gal		Includes a centrifugal pump with sump and a rear spraybar.	Hour	
Trailer, Water	Tank Capacity	6000 gal		Includes a centrifugal pump with sump and a rear spraybar.	Hour	
Trailer, Water	Tank Capacity	10000 gal		Includes a centrifugal pump with sump and a rear spraybar.	Hour	
Trailer, Water	Tank Capacity	14000 gal		Includes a centrifugal pump with sump and a rear spraybar.	Hour	
Trencher			to 40	Walk-behind, Crawler & Wheel Mounted. Chain and Wheel.	Hour	



Trencher			to 85	Walk-behind, Crawler & Wheel Mounted. Chain and Wheel.	Hour	
Trowel, Concrete	Diameter	48 in	to 12		Hour	
Truck, Concrete Mixer	Mixer Capacity	13 cy	to 300		Hour	
Truck, Dump	Struck Capacity	8 cy	to 220		Hour	
Truck, Dump	Struck Capacity	10 cy	to 320		Hour	
Truck, Dump	Struck Capacity	12 cy	to 400		Hour	
Truck, Dump	Struck Capacity	18 cy	to 400		Hour	
Truck, Dump, Off	Struck Capacity	28 cy	to 450		Hour	
Truck, Fire	Pump Capacity	1000 gpm			Hour	
Truck, Fire	Pump Capacity	1250 gpm			Hour	
Truck, Fire	Pump Capacity	1500 gpm			Hour	
Truck, Fire	Pump Capacity	2000 gpm			Hour	
Truck, Fire Ladder	Ladder length	75 ft			Hour	
Truck, Fire Ladder	Ladder length	150 ft			Hour	
Truck, Flatbed	Maximum Gvw	15000 lb	to 200		Hour	
Truck, Flatbed	Maximum Gvw	25000 lb	to 275		Hour	
Truck, Flatbed	Maximum Gvw	30000 lb	to 300		Hour	
Truck, Flatbed	Maximum Gvw	45000 lb	to 380		Hour	
Truck, Garbage	Capacity	25 cy	to 255		Hour	
Truck, Garbage	Capacity	32 cy	to 325		Hour	
Truck, Pickup				Transporting people.	Mile	
Truck, Pickup		½ ton			Hour	
Truck, Pickup		1 ton			Hour	
Truck, Pickup		1¼ ton			Hour	
Truck, Pickup		1½ ton			Hour	
Truck, Pickup		1¾ ton			Hour	
Truck, Tractor	4 x 2	30000 lb	to 220		Hour	
Truck, Tractor	4 x 2	45000 lb	to 310		Hour	
Truck, Tractor	6 x 4	50000 lb	to 400		Hour	

Truck, Water	Tank Capacity	2500 gal	to 175	Include pump and rear spray system.	Hour	
Truck, Water	Tank Capacity	4000 gal	to 250	Include pump and rear spray system.	Hour	
Tub Grinder			to 440		Hour	
Tub Grinder			to 630		Hour	
Tub Grinder			to 760		Hour	
Tub Grinder			to 1000		Hour	
Vehicle, Recreational			to 10		Hour	
Vehicle, Small			to 30		Hour	
Vibrator, Concrete			to 4		Hour	
Welder, Portable			to 16	Includes ground cable and lead cable.	Hour	
Welder, Portable			to 34	Includes ground cable and lead cable.	Hour	
Welder, Portable			to 50	Includes ground cable and lead cable.	Hour	
Welder, Portable			to 80	Includes ground cable and lead cable.	Hour	

## EXHIBIT 4 – PERFORMANCE BOND

CONTRACTOR (name, principal place of business, and phone number):

ABC Company

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

SURETY (name, principal place of business, and phone number):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CITY:

Director of Public Works  
City of Hialeah  
3700 West 4th Avenue  
Hialeah, FL 33012  
Telephone: 305/556-3800  
Facsimile: 305/827-0811

BOND No.

Date: \_\_\_\_\_

Amount: Twenty-Five Million and 00/100 Dollars (\$25,000,000.00)

KNOW ALL MEN BY THESE PRESENTS that we, ABC Company, Inc. (hereinafter "CONTRACTOR"), as Principal, and \_\_\_\_\_, hereinafter "SURETY", as Surety, are held and firmly bound unto the City of Hialeah, Florida (hereinafter "CITY"), as Oblige, in the amount of Twenty-Five Million and 00/100 Dollars (\$25,000,000.00), for the payment whereof CONTRACTOR and SURETY bind themselves, their heirs, executors, Directors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the SURETY has read all of the "Agreement for Disaster Recovery and Debris Removal Services" (hereinafter "Agreement") that is attached hereto and incorporated herein by reference, and SURETY has carefully considered the CONTRACTOR's obligations and duties under the Agreement, including but not limited to the provisions of Section 6 ("Damages and Indemnification"); and

WHEREAS, the CITY's award of an Agreement to the CONTRACTOR, and the CITY's execution of a Notice to Proceed to the CONTRACTOR, are contingent upon the execution of this bond (hereinafter "BOND") and these presents.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, if the CONTRACTOR shall in all respects promptly and faithfully perform and comply with all of the terms and conditions of the Agreement, and CONTRACTOR's obligations thereunder, then this obligation shall be void; otherwise, the BOND shall remain in full force and effect, in accordance with the Agreement and the following terms and conditions:

1. The SURETY, for value received, as hereby acknowledged, stipulates and agrees that no change, alteration or addition to the terms of the Agreement or to the work to be performed thereunder or the requirements for the same shall in any way affect the SURETY's obligations on the BOND, and SURETY does hereby waive notice of any change, alteration, or addition to the terms of the Agreement or to the work.

2. The SURETY, for value received, as hereby acknowledged, further stipulates and agrees that it will pay the CITY all losses, damages, expenses, costs, liquidated damages, and attorneys' fees, including fees incurred in appellate proceedings, the CITY sustains because of a default by the CONTRACTOR under the Agreement, up to the maximum amount of the BOND.

3. The fact that the CITY may extend the time within which the CONTRACTOR may perform its obligations shall not release the SURETY from its obligations under this BOND, whether such extension is made after notice to the SURETY or not, and the SURETY hereby consents that the CITY may extend the time for the CONTRACTOR's performance, without providing notice to the SURETY.

4. In the event that the CONTRACTOR defaults in the performance of any of the terms, covenants, or conditions of the Agreement, the CITY shall promptly give notice of such default to the SURETY in writing by certified mail, return receipt requested, addressed to the SURETY at its principal place of business, as identified above.

5. In the event that the CONTRACTOR defaults in the performance of any of the terms, covenants, or conditions of the Agreement, the SURETY shall have the right to complete the work or performance on behalf of the CONTRACTOR, and for that purpose shall have all of the rights of the CONTRACTOR under the Agreement for the completion of performance.

6. In the event that the CONTRACTOR defaults in the performance of any of the terms, covenants, or conditions of the Agreement, the SURETY shall remedy the default or otherwise satisfy its obligations under this BOND.

7. In the event there is a failure to perform the conditions of this obligation, the CITY may bring any and all actions, suits, or proceedings, or otherwise take such steps as it deems appropriate, to enforce the obligation of the SURETY, and the CITY may do so without joining the CONTRACTOR in any such actions, suits, or proceedings. Thereafter, whether judgment is obtained against the SURETY or not, successive actions can be brought against the CONTRACTOR, and this BOND shall remain a continuing obligation on the part of the SURETY and the CONTRACTOR until the conditions of this BOND have been fully performed, including the resolution of third party lawsuits.

8. It is understood and agreed that the obligation of the CONTRACTOR under this BOND continues from day to day until paid, and a new cause of action arises thereon daily with the result that the statute of limitations of the State of Florida does not run against the entire claim. The obligation of the SURETY under this BOND, therefore, continues in this manner, and no action, suit, or proceeding against the CONTRACTOR or the SURETY hereunder shall be barred, except under such conditions as would bar it under the said statute of limitations.

9. Any proceeding, legal or equitable, under this BOND shall be instituted only in a state or federal court of competent jurisdiction in Miami-Dade County, Florida, and shall be instituted within the statute of limitations after the CONTRACTOR's default or within the statute of limitations after the SURETY refuses or fails to perform its obligations under this BOND, whichever occurs later. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the State of Florida shall be applicable.

10. Notices to the SURETY, the CITY, and the CONTRACTOR shall be mailed or delivered to the addresses shown above.

11. The SURETY represents and warrants to the CITY that it has a rating of "A" or better as to management and "FSC X" or better as to strength by Best's Insurance Guide or Surety; (b) it is listed on the U.S. Treasury Department's list of acceptable sureties for federal bonds; (c) it has been in business continuously for at least five years; and (d) it will not cancel, alter, or not renew this BOND without providing at least 30 days advance notice to the CITY.

CONTRACTOR AS PRINCIPAL  
Company: (Corporate Seal)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Witnesses:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

SURETY  
Company: (Corporate Seal)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

FLORIDA RESIDENT AGENT FOR SURETY

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Fax

NOTE: Power of attorney and certification of authority for issuance and current status thereof for Attorney-in-Fact and for Surety Company must be attached. Proof that Surety is licensed to transact business in the State of Florida must be submitted with this Bond.

## EXHIBIT 5 – INSURANCE REQUIREMENTS

See Insurance Check List for applicability to this Solicitation and the Agreement.

The Contractor shall be responsible for its work and every part thereof, including all materials, tools, appliances and property of every description used in connection therewith. The Contractor shall specifically and distinctly assume all risks of damage or injury to property or persons used or employed on or in connection with the work and of all damage or injury to any person or property, wherever located, resulting from any action or inaction of the DMC under the Agreement or in connection with the work.

The Contractor shall, during the work under this Agreement, including extra work in connection therewith:

Maintain Worker's Compensation and Employer's Liability Insurance to meet the statutory requirements of the State of Florida, to protect themselves from any liability or damage which may arise by virtue of any statute or law in force or which may hereafter be enacted.

Maintain General Liability Insurance in amounts prescribed by the City to protect the Contractor in the interest of the City against all risks of injury to persons (including death) or damage to property wherever located resulting from any action or operation under the Agreement or in connection with the work.

Maintain Automobile Liability Insurance, including Property Damage, covering all used or operated automobiles and equipment used in connection with the work.

When naming the City of Hialeah as an additional insured onto the Contractor's policies, the insurance companies hereby agree and will endorse the policies to state that the City will not be liable for the payment of any premiums or assessments. An endorsement to the policy(ies) shall be issued accordingly and the certificate will state the above.

The insurance coverage shall extend to and include the contractual indemnity and hold harmless language contained in the Agreement.

Original, signed certified Insurance Certificates evidencing such insurance and such endorsements as prescribed herein shall be filed by the Contractor with the City of Hialeah, and approved by the City before the work is started. The certificate must state the Solicitation Number and Title.

Products and Completed Operations Liability shall be provided, as stated in the Insurance Check List.

The Contractor will secure and maintain policies for subcontractors. All policies shall be made available to the City upon demand.

The Contractor shall take note of the indemnification contained in the Agreement and shall obtain and maintain contractual liability insurance in adequate limits for the sole purpose of protecting the City of Hialeah under the Agreement from any and all claims arising out of the Contractor's operations.

Further, the Contractor will notify its insurance agent without delay of the existence of the indemnification requirement contained within the Agreement, and furnish a copy of the Agreement to the insurance agent.

The City shall be named as additional insured on the Automobile and General Liability policy(ies) with proof to be stated on the Certificates provided to the City and this coverage to be primary to all other coverage the City possesses.

### **SUPERVISION**

Contractual and any other Liability Insurance provided under the Agreement shall not contain a supervision, inspection, engineering services exclusion that would preclude the City from supervising and/or inspecting the Contractor's work. The Contractor shall assume all on-the-job responsibility as to the control of Persons directly employed by the Contractor and/or the subcontractor and Persons employed by the subcontractor.

### **CONTRACTS**

Nothing contained in the Solicitation or Agreement shall be construed as creating any contractual relationship between any subcontractor and the City.

The Contractor shall be as fully responsible to the City for the acts and omissions of the subcontractors and of persons employed by them, as the Contractor is for acts and omissions of Persons directly employed by the Contractor.

### **PROTECTION**

Precautions shall be exercised at all times for the protection of Persons, including employees, and property. All existing structures, utilities, roads, services, trees, shrubbery, etc., shall be protected against damage or interrupted service at all times by the Contractor during the term of the Agreement. The Contractor shall be held responsible for any damage to any Person or property occurring by reason of the Contractor's operation under the Agreement.

### **CROSS LIABILITY**

It is understood and agreed that the inclusion of more than one insured under the Contractor's policy shall not restrict the coverage provided by the policy for one insured hereunder with respect to a liability claim or suit by another insured hereunder or an employee of such other insured and that with respect to claims against any insured hereunder, other insurers hereunder shall be considered members of the public; but the provisions of this Cross Liability clause shall apply only with respect to liability arising out of the ownership, maintenance, use, occupancy or repair for such portions of the premises insured hereunder as are not reserved for the exclusive use of occupancy of the insured against whom claim is made or suit is filed.

### **CERTIFICATE OF INSURANCE**

On an Accord Certificate of Insurance binder, on the Cancellation Clause, the following shall be deleted: The word "endeavor" as well as "...but failure to mail such notice shall impose no obligation or liability of any kind upon the company".

### **OUT-OF-STATE NON-RESIDENT AGENT**

When a certificate is issued by an out-of-state non-resident agent with a "920" License, the name, address and telephone number of the Florida Resident Agent must be listed in the space provided on the checklist and on the Certificate of Insurance provided.

### **SMALL DEDUCTIBLE POLICIES**

All policies issued to cover the insurance requirements herein shall provide full coverage from the first dollar of exposure. No deductibles will be allowed in any policies issued on this contract unless specific safeguards have been established to assure an adequate fund for payment of deductibles by the insured. These safeguards shall be in form of escrow accounts or other method established by the Risk Manager to safeguard to the City's interests and those interests of any claimants under the contractor's policies.



## EXHIBIT 6 – INSURANCE CHECK LIST

RFP No. 2015-16-8500-36-002

INSURANCE	LIMITS
<u>X</u> 1. WORKERS' COMPENSATION AND EMPLOYEE'S LIABILITY POLICY ISSUED IN NAME OF VENDOR.	STATUTORY REQUIREMENT OF THE STATE OF FLORIDA.
<u>X</u> 2. COMMERCIAL GENERAL LIABILITY PREMISES OPERATIONS INCLUDED; PRODUCTS AND COMPLETED OPERATIONS INCLUDED; INDEPENDENT CONTRACTORS (O.C.P.) INCLUDED; ELEVATORS INCLUDED; SUPERVISION EXCLUSION DELETED; PERSONAL INJURY LIABILITY INCL	\$5,000,000 SINGLE LIMIT FOR BODILY INJURY AND PROPERTY DAMAGE COMBINED EACH OCCURRENCE.
<u>X</u> 3. BROAD FORM PROPERTY DAMAGE ENDORSEMENT	
<u>X</u> 4. CONTRACTUAL INDEMNITY/HOLD HARMLESS ENDORSEMENT EXACTLY AS WRITTEN IN "INSURANCE REQUIREMENTS" OF SPECIFICATIONS	\$1,000,000 SINGLE LIMIT FOR BODILY INJURY & PROPERTY DAMAGE COMBINED EACH OCCURRENCE.
<u>X</u> 5. AUTOMOBILE LIABILITY OWNED NON-OWNED/HIRED AUTOMOBILES INCLUDED	\$1,000,000 SINGLE LIMIT FOR BODILY INJURY & PROPERTY DAMAGE COMBINED EACH OCCURRENCE.
<u>X</u> 6. UMBRELLA LIABILITY	\$1,000,000 EXCESS OF ALL PRIMARY COVERAGE.
<u>  </u> 7. GARAGE LIABILITY	\$1,000,000 SINGLE LIMIT FOR BODILY INJURY AND PROPERTY DAMAGE COMBINED EACH OCCURRENCE
<u>  </u> 8. GARAGEKEEPER'S LEGAL LIABILITY	\$100,000 EACH OCCURRENCE
<u>X</u> 9. THE CITY MUST BE NAMED BY ENDORSEMENT AS ADDITIONAL INSURED ON THE INSURANCE POLICY AND THE FOLLOWING MUST ALSO BE STATED ON THE CERTIFICATE. "THESE COVERAGES ARE PRIMARY AND NON-CONTRIBUTORY TO ALL OTHER COVERAGES THE CITY POSSESSES FOR THIS CONTRACT ONLY."	
<u>  </u> 10. TEACHERS PROFESSIONAL LIABILITY	\$1,000,000 EACH CLAIM
<u>  </u> 11. LIQUOR LEGAL LIABILITY	\$1,000,000 EACH OCCURRENCE
<u>  </u> 12. CROSS LIABILITY OR SEVERABILITY OF INTERESTS CLAUSE ENDORSEMENT	

**CITY OF HIALEAH  
INSURANCE CHECK LIST**

**INSURANCE**

**LIMITS**

- 
13. XCU PROPERTY DAMAGE EXCLUSION DELETED AND THIS COVERAGE WILL PROVIDED
14. BUILDERS RISK FULL CONSTRUCTION COSTS OF THE PROJECT
15. OTHER INSURANCE AS INDICATED BELOW:
16. THIRTY (30) DAYS CANCELLATION NOTICE REQUIRED
17. BEST'S GUIDE RATING A-X OR BETTER OR ITS EQUIVALENT
18. THE CERTIFICATE MUST STATE THE RFP NUMBER AND TITLE
- 
19. CYBER LIABILITY \$1,000,000  
EACH CLAIM
19. INFORMATION TECHNOLOGY ERRORS AND OMISSIONS INCLUDING CYBER LIABILITY AND PRIVACY PROTECTION \$1,000,000  
EACH CLAIM
20. POLLUTION LIABILITY \$1,000,000  
EACH CLAIM
21. ERRORS & OMISSIONS/PROFESSIONAL LIABILITY \$5,000,000  
EACH CLAIM
22. BUSINESS PERSONAL PROPERTY COV. LIMITS EQUALING REPLACEMENT COST OF VENDOR'S PROPERTY
23. SPOILAGE COVERAGE LIMITS EQUALING REPLACEMENT COST OF VENDOR'S PROPERTY
24. LOSS OF INCOME COVERAGE. LIMITS ADEQUATE TO COVER LOSS OF INCOME AND EXTRA EXPENSE FOR 12 MONTHS
25. CRIME COVERAGE EMPLOYEE DISHONESTY INCLUDING FORGERY, COMPUTER FRAUD AND WIRE TRANSFER FRAUD
-

PROPOSER AND INSURANCE AGENT STATEMENT:

We understand the Insurance Requirements of this Solicitation and we recognize that evidence of insurability may be required within five (5) days after proposals are opened.

\_\_\_\_\_  
Proposer's Name

\_\_\_\_\_  
Insurance Agency

\_\_\_\_\_  
Signature of Proposer's Representative

\_\_\_\_\_  
Signature of Proposer's Agent

\_\_\_\_\_  
Signature of Florida Resident Agent

Agent's Errors and Omissions Policy:

\_\_\_\_\_  
Name and Location of Agency

\_\_\_\_\_  
Policy Company; Expiration Date; Amount  
of Coverage; Policy Number

## **EXHIBIT 7 – FORM 322**

Reserved.

# EXHIBIT 8 – FHWA FORM 1273

## EXHIBIT E

Revised May 1, 2012

### FHWA-1273

#### REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Government wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

#### ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

#### I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for

withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

#### II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific

Agreement No. 14-SAMPLE

- 18 -

## EXHIBIT E

requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield

qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

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c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. **Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. **Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

### 10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. **Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate

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or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

#### 2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations



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have ceased.

### 3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347inslr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as

set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

### 4. Apprentices and trainees

#### a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with

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the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

### b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT). Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

### 10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

### V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor

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shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages: The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

### VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the

submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

### VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry

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out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

### VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project.

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

### IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as

the contracting agency may direct as a means of enforcing such requirements.

### X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more -- as defined in 2 CFR Parts 180 and 1200.

#### 1. Instructions for Certification -- First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility

## EXHIBIT E

and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

### 2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### 2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

## EXHIBIT E

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

### Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-L.L., "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

### ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

## EXHIBIT 9 – BUY AMERICA REQUIREMENTS

EXHIBIT F

### BUY AMERICA REQUIREMENTS

Source of Supply – Steel and Iron (Federal Aid Contracts Only): For Federal-aid contracts, the CONSULTANT will only use steel and iron produced in the United States, in accordance with the buy America provisions of 23 CFR 635.410. CONSULTANT will ensure that all manufacturing processes for these materials occur in the United States. A manufacturing process is any process that modifies the chemical content, physical shape, size or final finish of a product, beginning with the initial melding and mixing and continuing through the bending and coating stages. A manufactured steel or iron product is complete only when all grinding, drilling, welding, finishing and coating have been completed. If a domestic product is taken outside the United States for any process, it becomes foreign source material. When using steel and iron as a component of any manufactured product incorporated into the project (e.g., concrete pipe, prestressed beams, corrugated steel pipe, etc.), these same provisions apply, except that the manufacturer may use minimal quantities of foreign steel and iron when the cost of such foreign materials does not exceed 0.1% of the compensation or \$2,500, whichever is greater. These requirements are applicable to all steel and iron materials incorporated into the finished work, but are not applicable to steel and iron items that the CONSULTANT uses but does not incorporate into the finished work. The CONSULTANT shall provide a certification from the producer of steel or iron, or any product containing steel or iron as a component, stating that all steel or iron furnished or incorporated into the finished product was manufactured in the United States in accordance with the requirements of this provision. Such certification shall also include: (1) a statement that the product was produced entirely within the United States, or (2) a statement that the product was produced with the United States except for minimal quantities of foreign steel and iron and specify the actual value of the product. Each such certification shall be furnished to the Authority prior to incorporating the material into the project. When FHWA allows the use of foreign steel on a project, CONSULTANT shall furnish invoices to document the costs of such material, and obtain the Authority's written approval prior to incorporating the material into the project.